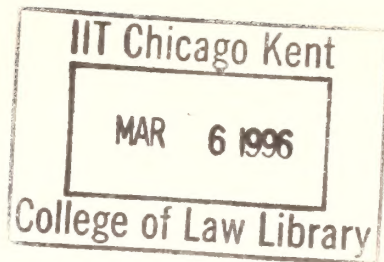
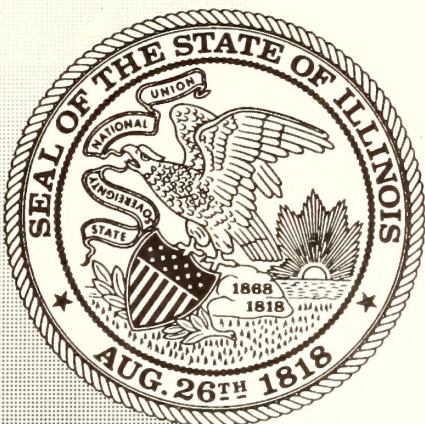


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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Background Check of Foster Family Home Applicants

2) Code Citation: 89 Ill. Adm. Code 380

3) Section Numbers: Proposed Action:

380.1 Repeal
 380.2 Repeal
 380.3 Repeal
 380.4 Repeal
 380.5 Repeal
 380.6 Repeal
 380.7 Repeal
 380.8 Repeal
 380.9 Repeal
 380.10 Repeal
 380.11 Repeal
 380.12 Repeal
 380.13 Repeal
 380.14 Repeal
 380.Appendix A Repeal

4) Statutory Authority: 225 ILCS 10/4

5) A Complete Description of the Subjects and Issues Involved: This Part, which requires background checks of foster family home applicants, is being repealed. The requirements are being transferred to 89 Ill. Adm. Code 385, Background Checks, which is being expanded in order to consolidate all background inquiries required of providers and licensees who have contact with children.

6) Will this proposed repealer replace an emergency rule currently in effect?
 No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

Jacqueline Nottingham
 Chief, Office of Rules and Procedures
 Department of Children and Family Services
 406 East Monroe, Station #222
 Springfield, IL 62701-1498
 (217) 524-1983
 TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis: This proposed repealer will not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Department did not foresee the need for this rulemaking at the time of the last two regulatory agendas.

The full text of the proposed repealer begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER d: LICENSING ADMINISTRATION

PART 380
 BACKGROUND CHECK OF FOSTER FAMILY HOME APPLICANTS (REPEALED)

- Section
- 380.1 Purpose
 - 380.2 Definitions
 - 380.3 Authorization for Criminal History Check
 - 380.4 Fingerprinting of Applicants, Foster Parents, and Adult Members of the Household
 - 380.5 Notice to Foster Family Home Applicant
 - 380.6 Confidentiality of Information Received
 - 380.7 Standard of Review Concerning Criminal History
 - 380.8 Suspension of Application When Criminal Charges Are Pending
 - 380.9 Denial of or Refusal to Renew a License
 - 380.10 Applicant Appeal of Denial of or Refusal to Renew a License
 - 380.11 Destruction of Criminal History Information
 - 380.12 Return to Individual of Materials Provided
 - 380.13 Request for Information Obtained
 - 380.14 Check With State Central Register

APPENDIX A Criminal Convictions Which Prevent Licensure

AUTHORITY: Implementing and authorized by Section 4 of the Child Care Act of 1969 [225 ILCS 10/4].

SOURCE: Adopted and codified at 5 Ill. Reg. 5501, effective May 27, 1981; emergency amendment at 19 Ill. Reg. 4753, effective March 24, 1995, for a maximum of 150 days; emergency amendment modified in response to an objection by the Joint Committee on Administrative Rules at 19 Ill. Reg. 6718; amended at 19 Ill. Reg. 10473, effective July 1, 1995; repealed at 20 Ill. Reg. _____, effective _____.

Section 380.1 Purpose

The purpose of this Part is to detail the process that the Department uses to check foster family home applicants to determine if any adult member of the household has a prior criminal history. The primary focus of the criminal background check is to consider criminal charges as they might affect the applicant's ability to perform responsibly as a foster parent or as they might affect the foster children's safety in the home. In addition, the Department shall conduct checks of the State Central Register on all members of the household age 13 or over to determine whether they have been indicated as a perpetrator in a child abuse/neglect report.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

Section 380.2 Definitions

"Adult" means any person who is eighteen (18) years of age or older.

"Foster family home applicant" means those individuals applying directly to the Department of Children and Family Services or through a licensed child welfare agency for a license to provide full-time care for children.

"Member of the household" means a person who resides in the household as evidenced by maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

Section 380.3 Authorization for Criminal History Check

Each applicant for a foster family home license, whether applying directly to the Department of Children and Family Services or through a licensed child welfare agency, shall provide written authorization for the Department to request and receive information about the applicant from the United States Department of Justice, the Illinois State Police, or other named law enforcement agency. In addition, other adult members of the applicant(s)' household and licensed foster parents shall authorize the Department to request and receive information about any criminal history background and shall submit to fingerprinting, when requested by the Department. Such authorizations shall be received within 15 days after a request from the Department.

Section 380.4 Fingerprinting of Applicants, Foster Parents, and Adult Members of the Household

Each applicant for a foster family home license, licensed foster parents (when requested by the Department), and each adult member of the household shall submit to a fingerprinting process administered by the Department or its agent. Fingerprints shall be transmitted to the Illinois State Police or other law enforcement agency named by the Department of Children and Family Services in accordance with the process outlined by the Department for obtaining background information on these persons.

Section 380.5 Notice to Foster Family Home Applicant

Each applicant for foster home licensure shall be informed in writing of the Department's requirement that the applicant and each adult member of the household consent to a criminal history check and submit to fingerprinting procedures as part of the foster home licensing process. Persons who authorize a criminal history check shall be informed of their right to recover the identity materials submitted and to receive a copy of criminal history information about the individual obtained by the Department.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

Section 380.6 Confidentiality of Information Received

- a) All information received by the Department of Children and Family Services from a law enforcement agency which concerns an applicant for foster family home licensure, a licensed foster parent, or any member of the household is confidential. It may be released only as authorized by this Part.
- b) All information received pursuant to this Part shall be maintained in a single information system under the sole control of the Director of the Department of Children and Family Services or his designee.
- c) All criminal history information shall be used solely for the purpose of evaluating the suitability of the foster home and shall be accessible only to those employees directly involved in the foster home licensing process for the applicant or specifically designated by the Director of the Department to review criminal history information.
- d) Any employee of the Department of Children and Family Services who gives or causes to be given in a manner not authorized by this Part any confidential information concerning any criminal charges and their disposition pertaining to a foster parent applicant shall be guilty of a Class A misdemeanor pursuant to Section 4 of the Child Care Act of 1969 [225 ILCS 10/4].

Section 380.7 Standard of Review Concerning Criminal History

- a) In assessing the suitability of an applicant for foster parent licensure, the Department may consider prior criminal charges and their disposition (including convictions), criminal charges pending at the time of application, and criminal charges filed during review of the application.
- b) When a criminal history has been discovered Department employees, designated by the Director of the Department, shall review the materials focusing on the relationship between the offense which was the basis for the conviction and the applicant's ability to perform responsibility as a foster parent. The following shall be considered:
 - 1) the type of crime for which the individual was convicted;
 - 2) the number of crimes for which the individual was convicted;
 - 3) the nature of the offense;
 - 4) the age of the individual at the time of the conviction;
 - 5) the length of time that has elapsed since the last conviction;
 - 6) the relationship of the crime and the ability to care for children;
 - 7) evidence of rehabilitation; and
 - 8) opinions of community members concerning the individual in question.
- c) Persons with certain serious criminal convictions shall not receive a license to serve as a foster parent or be an adult member of the household of a foster family home. These serious crimes are listed in Appendix A of this Part.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

Section 380.8 Suspension of Application When Criminal Charges Are Pending

If criminal charges are pending against an applicant or adult member of the household when the application for foster family home licensure is filed, the applicant may withdraw the application or the application process for that foster family home shall be suspended until some official disposition of the charges is submitted to the Department by appropriate officials.

Section 380.9 Denial of or Refusal to Renew a License

If the Department decides to deny a foster family home license applications or refuses to renew a foster family home license application based upon criminal history record information, the applicant shall be notified in writing. The notice shall include the specific reasons for the decision, along with a notice of the applicant's right to appeal the decision.

Section 380.10 Applicant Appeal of Denial of or Refusal to Renew a License

Within 10 days after the applicant's receipt of a denial or refusal to renew a license based upon criminal history record information, the applicant may request, in writing, review of the decision by the Director of the Department of Children and Family Services or his designee. A request for the Director's review shall be based on the applicant's challenge to the reasonableness of the decision. If the applicant fails to request an appeal within this ten day period, the denial or refusal to renew a license shall be a final administrative ruling. Final administrative rulings are subject only to administrative review in Circuit Court, pursuant to the Administrative Review Act. [735 ILCS 5/Art. III]

Section 380.11 Destruction of Criminal History Information

All Criminal history information obtained by the Department shall be destroyed no later than sixty (60) days after the Department has made a final ruling on the application and after all rights of appeal have been exhausted and pending appeals completed.

Section 380.12 Return to Individual of Materials Provided

After the Criminal history check has been completed, all identity materials obtained from the applicant, licensed foster parents, or any adult member of the household by the Department of Children and Family Services, or its agent, shall be returned in its original form to the applicant upon written request to the Department of Children and Family Services. No copies of the identity materials shall be made or retained by the Department of Children and Family Services or by any agency to which such identity materials were transmitted.

Section 380.13 Request for Information Obtained

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

All information obtained from the criminal history check, including the source of the information, and any conclusions or recommendations derived from this information by the Department of Children and Family Services, shall be provided to the individual, or designee, upon written request to the Director of the Department, prior to any final action on the application by the Department of Children and Family Services.

Section 380.14 Check With State Central Register

- a) Applicants shall be informed that the Department's State Central Register of child abuse and neglect will be queried concerning indicated child abuse or neglect reports concerning them and any member of the household 13 years of age and older.
- b) When an indicated report is discovered Department employees designated by the Director of the Department shall assess the information in accordance with the criteria established in 89 Ill. Adm. Code 385, Background Checks.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

Section 380. APPENDIX A Criminal Convictions Which Prevent Licensure

If the foster parent applicant(s), licensed foster parents (when requested by the Department), or any adult member of the household has been convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 [720 ILCS 5], the Cannabis Control Act [720 ILCS 550], and the Illinois Controlled Substances Act [720 ILCS 570] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to receiving a foster home license or permit.

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

Murder
Solicitation of murder
Solicitation of murder for hire
Intentional homicide of an unborn child
Voluntary manslaughter of an unborn child
Involuntary manslaughter
Reckless homicide
Concealment of a homicidal death
Involuntary manslaughter of an unborn child
Reckless homicide of an unborn child
Drug induced homicide

KIDNAPPING AND RELATED OFFENSES

Kidnapping
Aggravated kidnapping
Unlawful restraint
Aggravated unlawful restraint
Forcible detention
Child abduction
Aiding and abetting child abduction

SEX OFFENSES

Indecent solicitation of a child
Public indecency
Exploitation of a child
Sexual exploitation of a child
Sexual relations within families
Prostitution
Soliciting for a prostitute
Soliciting for a juvenile prostitute

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

Pandering
 Keeping a place of prostitution
 Keeping a place of juvenile prostitution
 Patronizing a prostitute
 Patronizing a juvenile prostitute
 Pimping
 Juvenile pimping
 Obscenity
 Child pornography
 Harmful material
 Tie-in sales of obscene publications to distributors

BODILY HARM

Felony aggravated assault
 Vehicular endangerment
 Felony domestic battery
 Aggravated battery
 Heinous battery
 Aggravated battery with a firearm
 Aggravated battery of a child
 Aggravated battery of an unborn child
 Tampering with food, drugs, or cosmetics
 Aggravated battery of a senior citizen
 Drug induced infliction of great bodily harm
 Intimidation
 Compelling organization membership of persons
 Hate crime
 Stalking

Aggravated stalking
 Threatening public officials
 Home invasion
 Vehicular invasion
 Criminal sexual assault
 Aggravated criminal sexual assault
 Criminal sexual abuse
 Aggravated sexual abuse
 Criminal transmission of HIV
 Abuse and gross neglect of a long term care facility resident
 Criminal neglect of an elderly or disabled person
 Child abandonment
 Endangering the life or health of a child
 Felony violation of an order of protection
 Ritual mutilation
 Ritualized abuse of a child

OFFENSES DIRECTED AGAINST PROPERTY

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

Felony theft
 Robbery
 Armed robbery
 Aggravated robbery
 Vehicular hijacking
 Aggravated vehicular hijacking
 Burglary
 Possession of burglary tools
 Residential burglary
 Criminal fortification of a residence or building
 Arson
 Aggravated arson
 Possession of explosives or explosive or incendiary devices

OFFENSES AFFECTING PUBLIC HEALTH, SAFETY AND DECENCY

Felony unlawful use of weapons
 Aggravated discharge of a firearm
 Reckless discharge of a firearm
 Unlawful use of metal piercing bullets
 Unlawful sale or delivery of firearms on the premises of any school
 Disarming a police officer
 Obstructing justice
 Concealing or aiding a fugitive
 Armed violence
 Felony contributing to the criminal delinquency of a juvenile

DRUG OFFENSES

Possession of more than thirty grams of cannabis
 Manufacture of more than 10 grams of cannabis
 Cannabis trafficking
 Delivery of cannabis on school grounds
 Unauthorized production of more than five cannabis sativa plants
 Calculated criminal cannabis conspiracy
 Unauthorized manufacture or delivery of controlled substances
 Controlled substance trafficking
 Manufacture, distribution, advertisement of look-alike substances
 Calculated criminal drug conspiracy
 Permitting unlawful use of a building
 Delivery of controlled, counterfeit or look-alike substances to persons under age 18, or at truck stops, rest stops, safety rest areas, or on school property
 Using, engaging, or employing persons under 18 to deliver controlled, counterfeit or look-alike substances
 Delivery of controlled substances
 Sale or delivery of drug paraphernalia

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

Felony possession, sale or exchange of instruments adapted for use of controlled substance or cannabis by subcutaneous injection

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Background Checks

2) Code Citation: 89 Ill. Adm. Code 385

<u>Section Numbers:</u>	<u>Proposed Action:</u>
385.10	Amend
385.20	Amend
385.30	New
385.40	New
385.50	Renumber, Amend
385.60	Renumber, Amend
385.70	Renumber, Amend
385.80	New
385.90	New
385.100	Renumber, Amend
385.Appendix A	New

4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: The amendments to these rules require criminal history checks for all applicants for a license to operate a child care facility and other persons subject to background checks, as defined in the Part. This includes a check of the Statewide Child Sex Offender Database (effective June 1, 1996), and certification from each license applicant/licensee that he or she is not more than 30 days delinquent in child support. Licenses will not be issued to persons who are more than 30 days delinquent in child support unless each license applicant/licensee pays the delinquent child support or, if they are unable to pay the full amount, arranges a payment plan with the Department of Public Aid or the court of jurisdiction.

Criminal history checks of adults will be completed via the use of fingerprints, whereas criminal history checks of persons ages 13 through 17 will be completed via the Law Enforcement Agency Data System (LEADS). The amendments also require that all persons age 13 and over who are members of the household in which a child care facility operates must authorize and submit to background checks, as required by this Part. The amendments describe how criminal convictions are to be evaluated and provide a list of serious criminal convictions and pending criminal charges which serve as a bar to licensure/employment.

In a similar manner, the amendments establish the presumption that persons who have been indicated as the perpetrator of child abuse/neglect are not suitable for employment which involves contact with children, but allow the licensing entity or the employer to request a waiver of the presumption of unsuitability for good cause.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

The rules allow for a decision review process to correct cases of mistaken identity or to consider additional evidence of the person's suitability for licensure to operate a child care facility.

- 6) Will these proposed rules replace an emergency rule currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any proposed amendments to this Part pending? No

- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #222
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are schedules as follows.

Rockford	Chicago
April 1, 1996	April 2, 1996
7:00 p.m. - 9:00 p.m.	7:00 p.m. - 9:00 p.m.
Sweden House	Quality Inn
4605 East State	One South Halsted
Rockford, IL 61108	Chicago, IL 60661

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(815) 398-4130 (312) 829-5000
Springfield Collinsville
April 4, 1996 April 8, 1996
7:00 p.m. - 9:00 p.m. 7:00 p.m. - 9:00 p.m.
State House Quality Inn
Room 114 475 N. Bluff
Springfield, IL 62706 Collinsville, IL 62234
(217) 782-8223 (618) 344-7171

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: Day care homes, group day care homes, and day care centers, for profit group homes and child care institutions.
- B) Reporting, bookkeeping or other procedures required for compliance:
The amendments require child care facilities to obtain authorizations for background checks, insure prospective employees appear for fingerprinting, and analyze the results of the background checks in accordance with the requirements of this part. Facilities will also be required to conduct reviews, upon written requests, of their decisions to deny employment based upon the results of the background checks.

- C) Types of professional skills necessary for compliance? Employers will need to exercise professional judgment in assessing whether individuals convicted or charged with a crime can still be licensed or employed to provide services which require contact with children.

- 13) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included on the 2 most recent agendas because: The need for the amendment was not foreseen at the time of the two most recent regulatory agendas.

The full text of the proposed amendments begins on page **3932**.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Background Inquiry for Purchase of Service Providers

- 2) Code Citation: 89 Ill. Adm. Code 358

- 3) Section Numbers: Proposed Action:

358.1	Repeal
358.2	Repeal
358.3	Repeal
358.4	Repeal
358.5	Repeal
358.6	Repeal
358.7	Repeal
358.8	Repeal

- 4) Statutory Authority: 225 ILCS 10

- 5) A. Complete Description of the Subjects and Issues Involved: The requirements for background inquiries on current and prospective employees of purchase of service provider agencies contracting with the Department are being transferred to 89 Ill. Adm. Code 385, Background Checks, which is being expanded to include criminal background checks (fingerprinting) of service providers who have contact with children as well as operators and current and prospective employees of child care facilities.

- 6) Will this proposed repealer replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed repealer contain incorporations by reference? No

- 9) Are there any proposed amendments to this Part pending? No

- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
 Chief, Office of Rules and Procedures
 Department of Children and Family Services
 406 East Monroe, Station #222
 Springfield, IL 62701-1498

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

- (217) 524-1983

TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility Analysis: This proposed repealer will not affect small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Department did not foresee the need for this rulemaking at the time of the last two regulatory agendas.

The full text of the proposed repealer begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER c: FISCAL ADMINISTRATION

PART 358

BACKGROUND INQUIRY FOR PURCHASE OF SERVICE PROVIDERS (REPEALED)

Section

358.1 Purpose

358.2 Definitions

358.3 Effective Date

358.4 Questions About Criminal Background

358.5 Maintenance of Response

358.6 The Handling of Applications Indicating a Criminal Conviction

358.7 Other Persons Who Have Been Convicted of a Crime

358.8 Reviewing Background Inquiries

AUTHORITY: Implementing Section 7(a)(2) of the Child Care Act of 1969 [225 ILCS 10/7(a)(2)] and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4].

SOURCE: Adopted and codified at 5 Ill. Reg. 8673, effective September 1, 1981; repealed at 20 Ill. Reg. _____, effective _____.

Section 358.1 Purpose

The purpose of these rules is to insure the safety and well-being of children provided with services purchased by the Department. These rules require purchase of service provider agencies contracting with the Department of Children and Family Services to ask all prospective employees and all current employees, who are or will be regularly responsible for the direct care and supervision of children, to respond to written questions about their backgrounds. In addition, purchase of service agencies shall, at the discretion of their governing board, ask subcontractor employees and volunteers who have direct contact with children to respond to written questions about their backgrounds. The Department shall also ask individual purchase of service providers to answer questions about their backgrounds. These rules do not apply to foster homes as defined in Part 402, Licensing Standards for Foster Family Homes. Foster parents are required, by law, to submit to fingerprint checks.

Section 358.2 Definitions

"Child care facility" means any person, group of persons, agency, association or corporation which arranges for or cares for children unrelated to the operator of the facility, apart from the parents. Child care facilities may be established for profit or not-for-profit.

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"Direct contact with children" means the supervision, direction, or personal care of a child.

"Purchase of service provider" means an agency or individual offering services to a Department client through a signed contract for paid services.

Section 358.3 Effective Date

Effective with the adoption of these rules, purchase of service agencies shall inquire into the backgrounds of all personnel who are currently employed with the agency who are regularly responsible for the direct care and supervision of children. Likewise, the Department shall inquire into the backgrounds of all individual purchase of service providers. Thereafter, the questions shall be asked as required in Section 358.4.

Section 358.4 Questions About Criminal Background

a) The following individuals, if they have responsibility for the direct care and supervision of children, shall respond in writing to the questions in subparagraph b) below:

- 1) prospective employees of a purchase of service agency, during the job application process;
 - 2) current employees of a purchase of service agency, before the issuance or renewal of the agency's license or at least once every two years if the agency does not require licensing;
 - 3) individual advocates, counselors, homemakers, day or night care providers and emergency caretakers, at least once every two years;
 - 4) at the discretion of the governing body, employees of a subcontractor to a purchase of service agency who have direct contact with children; and
 - 5) at the discretion of the governing body, volunteers who have direct contact with children.
- b) The individuals cited in subparagraph a) above shall answer the following questions and verify that their response is true and correct to the best of their knowledge.
- 1) Have you every been convicted of a crime other than a minor traffic violation?; and
 - 2) If the answer is yes, list all pertinent details.

Section 358.5 Maintenance of Response

The written response shall be maintained for five years in a separate file of responses to these questions. Access to the written response shall be limited to the individual purchase of service provider, or the child care facility's personnel officer, or executive director and to the following staff of the Illinois Department of Children and Family Services only upon their request:

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- a) Director of the Department;
- b) Director's designee;
- c) Internal auditors and investigators;
- d) Department licensing representatives; or
- e) Administrators of Department Regions.

Section 358.6 The Handling of Applications Indicating a Criminal Conviction

When a criminal conviction is listed by the applicant for employment with a purchase of service agency, the agency will not automatically reject an applicant solely because of this conviction. When the Department learns that an individual who is requesting an initial purchase of service contract has been convicted of a crime, the Department shall not automatically reject the individual because of this conviction. Instead, the employer or the Department shall consider the following:

- a) the type of crime for which the individual was convicted;
- b) the number of crimes for which the individual was convicted;
- c) the nature of the offense(s);
- d) the age of the individual at the time of conviction;
- e) the length of time that has elapsed since the last conviction;
- f) the relationship of the crime and the capacity to care for children;
- g) evidence of rehabilitation; and
- h) opinions of community members concerning the individual in question.

Section 358.7 Other Persons Who Have Been Convicted of a Crime

When an employer learns that a current employee, or other persons who have direct contact with children, have been convicted of a crime, those persons shall not be immediately discharged from their positions solely because of this conviction. When the Department learns that an individual purchase of service provider has been convicted of a crime, the Department shall not immediately terminate the contract solely because of this conviction. Instead, the employer or the Department shall consider the factors identified in Section 358.6.

Section 358.8 Reviewing Background Inquiries

- a) Through its contracts with providers the Department shall ensure that:
 - 1) background inquiries are being completed as specified in these rules; and
 - 2) individuals with a criminal background are being evaluated according to the criteria set forth in these rules.
- b) The Department shall review the provider's background inquiries when conducting an audit or conducting a licensing study. If the provider is not in compliance with these rules, the Department shall follow the process established in Part 434, Audits, Reviews and Investigations or in Part 383, Licensing Enforcement, as appropriate.

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- 1) Heading of the Part: Placement and Visitation Services
- 2) Code Citation: 89 Ill. Adm. Code 301
- 3) Section Numbers: Proposed Action:

301.Appendix A Amend

- 4) Statutory Authority: 20 ILCS 505

- 5) A. Complete Description of the Subjects and Issues Involved: The Department is amending Appendix A which contains the list of crimes which prohibit placement with relatives to include indecent solicitation of an adult and solicitation of a sexual act, which were inadvertently omitted from the list, and predatory sexual assault of a child, which was added by Public Act 89-428, the Child Sex Offender Community Notification Law.

- 6) Will these proposed rules replace an emergency rule currently in effect?
Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed rules contain incorporations by reference? No

- 9) Are there any proposed amendments to this Part pending? Yes

301.20	Amend	July 21, 1995 (19 Ill. Reg. 10349)
301.60	Amend	November 3, 1995 (19 Ill. Reg. 15116)
301.70	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.200	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.210	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.220	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.230	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.240	New Section	July 21, 1995 (19 Ill. Reg. 10349)

- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures

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Department of Children and Family Services
406 East Monroe, Station #222
Springfield, Illinois 62701-1498

Telephone: (217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis: These rules do not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent agendas because: The Department did not foresee the need for this rulemaking at the time of the last two regulatory agendas.

The full text of the proposed amendment begins on page **3963** of this issue of the Illinois Register.

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Purchase of Service
- 2) Code Citation: 89 Ill. Adm. Code 357
- 3) Section Numbers: Proposed Action:
357.12 Amend
- 4) Statutory Authority: 20 ILCS 505
- 5) A Complete Description of the Subjects and Issues Involved: This amendment changes the reference to 89 Ill. Adm. Code 358, Background Inquiry For Purchase of Service Providers, to 89 Ill. Adm. Code 385, Background Checks.

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)).

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #222
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Day care homes and centers, for profit group homes and institutions.

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B) Reporting, bookkeeping or other procedures required for compliance: The amendments require child care facilities to have fingerprint checks done on prospective employees. Facilities will also be required to conduct reviews, upon written requests, of their decisions to deny employment based upon background checks.

C) Types of professional skills necessary for compliance? Employers will need to exercise professional judgment in assessing whether individuals convicted or charged with a crime can still be licensed or employed to provide services which require contact with children.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: the need for the Amendment was not foreseen at the time of the two most recent regulatory agendas.

The full text of the proposed amendment begins on the next page.

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER C: FISCAL ADMINISTRATION

PART 357
PURCHASE OF SERVICE

Section	Purpose
357.1	Definitions
357.2	Procuring Services
357.3	Issuance of Requests for Proposals
357.4	Content of Requests for Proposals
357.5	Evaluation of Proposals
357.6	Notification of Awards
357.7	Disclosure of Proposals
357.8	Contract Approval
357.9	Compliance During the Contract Period
357.10	Fiscal Reports and Records
357.11	Required Documentation
357.12	Contract Termination
357.13	

AUTHORITY: Implementing 42 CFR 431 and authorized by Section 5 of the Department of Children and Family Services Act [20 ILCS 505].

SOURCE: Adopted and codified at 5 Ill. Reg. 14546, effective December 29, 1981; amended at 6 Ill. Reg. 9294, effective July 26, 1982; amended at 8 Ill. Reg. 12127, effective July 13, 1984; amended at 9 Ill. Reg. 11292, effective July 15, 1985; amended at 13 Ill. Reg. 3344, effective March 1, 1989; amended at 20 Ill. Reg. _____, effective _____.

Section 357.12 Required Documentation

a) Purchase of service providers are required to keep records which are detailed and accurate enough to document the reasons for a decision, the ways monies were spent, and the beneficiaries of income, goods, and services. Such required record keeping shall include but not be limited to:

1) establishment of financial record keeping which includes:

- A) Cash Receipts Journal
- B) Cash Disbursements Journal
- C) General Journal
- D) General Ledger
- E) All cash disbursements and/or expenses must be fully supported by documentation; such as invoices, time sheets, time studies, or approved cost allocation plans.

2) establishment of programmatic compliance record keeping which includes:

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- A) Individual client files on each client applying for and receiving service,
- B) Schedule of service provided to each client which includes the date and time service was provided, and the agency's employee providing service.
- b) Purchase of service providers shall maintain individual client records for clients for whom services were purchased by the Department five years from the date services are terminated. Individual client records shall contain:
- 1) the original referral from the Department or in the case of funded day care facilities the documentation of need for services if it was the provider's responsibility to gather it or if the Department submitted it to the provider;
 - 2) documentation which supports Title IV-E and XIX (42 CFR 431) eligibility determinations and redeterminations, as appropriate, if it was the provider's responsibility to gather it or if the Department submitted it to the provider;
 - 3) documentation which supports the need for child protective services if it was the provider's responsibility to gather it or if the Department submitted it to the provider;
 - 4) documentation of the service planning goals established when the case was opened and the changes made in the service planning goals as the client's needs changed;
 - 5) documentation of the child and family's progress or lack of progress toward achieving the service planning goals including the social service worker's or other responsible employee's reports and official records regarding the child and family's cooperation in meeting service planning goals;
 - 6) basic client social history data if it was the provider's responsibility to gather it or if the Department submitted it to the provider; and
 - 7) any other documentation specifically required in the purchase of service contract.
- c) Purchase of service providers shall maintain personnel records of all employees who provide direct or supportive services to Department clients. Personnel records shall be maintained on each employee for five years after the termination of employment. The following information shall be maintained:
- 1) proof of educational background including high school or college transcripts or a copy of the diploma; or, if the employee has attended a training program, documentation of the employee's completion of the program;
 - 2) detailed summary of the employee's work experience;
 - 3) at a minimum, yearly employee performance evaluations;
 - 4) payroll data including salary, accrued vacation and sick days, records of when vacation and sick days were taken, and travel expense records; and
 - 5) documentation that a background check criminal--history--inquiry

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was completed for each employee in accordance with the Department's rules rulemaking, 89 Ill. Adm. Code 385, Background Checks. 89-III-Adm--Code--350--Background-Inquiry-For-Purchase-of-Service-Providers.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED RULES

1) Heading of the Part: Illinois Funeral or Burial Funds Act

2) Code Citation: 38 Ill. Adm. Code 610

3) Section Numbers: Proposed Action:

610.10	New
610.20	New
610.30	New
610.40	New
610.50	New
610.60	New
610.70	New
610.80	New
610.90	New
610.Exhibit A	New

4) Statutory Authority: 225 ILCS 45

5) A Complete Description of the Subjects and Issues Involved: These proposed rules regulate the sale of funeral goods and services and cemetery vaults on a pre-need basis, and protect the funds deposited by purchasers. The proposed rules require that sellers of pre-need funeral contracts be licensed by the Comptroller whether or not the contract is funded by trust arrangement, life insurance, or annuity. Further, the proposed rules require that all pre-need contracts sold in Illinois contain disclosures to assist the consumers in their selection of pre-need funeral arrangements. Lastly, a booklet promulgated by the Comptroller's Office must be distributed before any pre-need funeral contract may be sold in Illinois.

6) Will these proposed rule replace an emergency rule currently in effect? No

7) Does this proposed rulemaking contain an automatic repeal date? No

8) Do this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending in this Part? No

10) Statement of Statewide Policy Objectives (if applicable): These proposed rules do not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. Written comments may be submitted within 45 days of the publication of this notice to:

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• Keith J. Flanagan
Office of the Comptroller
201 State Capitol Building
Springfield, IL 62706-0001
(217) 782-5328

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Funeral Homes, Cemeteries and Insurance Companies and Producers.

B) Reporting, bookkeeping or other procedures required for compliance: Licensing of the pre-need seller and filing of annual report by the licensee are procedures that are required for compliance with the Act.

C) Types of professional skills necessary for compliance: No additional professional skills necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Rule(s) begins on the next page:

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TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER V: COMPTROLLER

PART 610

ILLINOIS FUNERAL OR BURIAL FUNDS ACT

Section

610.10 Statutory Authority

610.20 Application

610.30 Definitions

610.40 Classification of Pre-Need Contract by Funding Methods

610.50 Requirements for Pre-Need Contracts

610.60 Trust Investment in Life Insurance or Annuities

610.70 Requirements for Pre-Need Booklet

610.80 Licensing of Sellers of Pre-Need Contracts Funded by Life Insurance or

Tax-Deferred Annuity

610.90 Schedule of Charges for Examinations for Licensee of Pre-Need

Contracts Funded by Life Insurance or Tax-Deferred Annuity

EXHIBIT A Pre-Need Contract Booklet

AUTHORITY: Implementing Sections 1a-1, 2(d), 2a, 3, 3f, and 4a and authorized by Sections 1a-1, 2 and 3 of the Illinois Funeral or Burial Funds Act (225 ILCS 45/1a-1, 2, 2(d), 2a, 3, 3f, 4a and 1a).

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 610.10 Statutory Authority

a) Form and Review of Pre-Need Contracts.

1) All pre-need contracts must be in writing and no pre-need contract form shall be used without prior filing with the Comptroller. The Comptroller shall review all pre-need contract forms and shall prohibit the use of contract forms that do not meet the requirements of this Act upon written notification to the seller. Any use or attempted use of any oral pre-need contract or any written pre-need contract in a form not filed with the Comptroller or in a form that does not meet the requirements of this Act shall be deemed a violation of this Act. Life insurance policies, tax-deferred annuities, endorsements, riders or applications for life insurance or tax-deferred annuities are not subject to filing with the Comptroller. The Comptroller may by rule develop a model pre-need contract form that meets the requirements of this Act. [225 ILCS 45/1a-1(d)]

2) The State Comptroller shall by rule develop a booklet that describes the statutory requirements, the different funding

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mechanisms, and all disclosures required under this Act. After the adoption of these rules, no pre-need contract shall be sold in this State unless the seller distributes to the purchaser, prior to the sale, a booklet promulgated or approved for use by the State Comptroller. [225 ILCS 45/1a-1 (e)]

b) For pre-need contracts funded by life insurance or a tax-deferred annuity, the cost of an examination shall be borne by the licensee if \$10,000 or more of funeral goods and services have been funded by life insurance or annuities during the preceding calendar year. The fee schedule for such examination shall be established in rules promulgated by the Comptroller. [225 ILCS 45/3]

c) Trust Agreements shall follow the format of the standard Funeral Trust Agreements approved by the Comptroller. [225 ILCS 45/2(d)]

Section 610.20 Application

This Part applies to any Seller of pre-need funeral contracts sold in this State.

Section 610.30 Definitions

For the purposes of this Part, the following definitions shall apply:

"Act", the Illinois Funeral or Burial Funds Act.

"Contract Beneficiary", the person specified in the pre-need contract upon whose death funeral services or merchandise shall be provided or delivered. [225 ILCS 45/1a]

"Cash Advance Item", a cash advance item is any item obtained from a third party at the direction and on the behalf of the person entering a pre-need contract and paid for by the funeral provider. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities; and death certificates.

"Funeral Goods or Funeral Merchandise", the undelivered goods, including personal property of any nature, which are sold, furnished, delivered or offered for sale directly to the public for use in connection with funeral services and/or the final disposition of a dead human body, including, but not limited to outer burial containers, urns, combination casket-vault units, caskets and clothing, for future use at a time determinable by the death of a person.

"Funeral Services", any services which may be used to care for and prepare deceased human bodies for final disposition, and arrange,

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supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

"Income", amounts earned through investments or interest.

"Licensee", a seller of a pre-need contract who has been licensed by the Comptroller, or is required to be licensed by the Comptroller under the Act. [225 ILCS 45/1a]

"Pre-need contract", any agreement or contract, or any series or combination of agreements or contracts, whether funded by trust deposits or life insurance policies or annuities, which has for a purpose the furnishing or performance of funeral services or the furnishing or delivery of any personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body. [225 ILCS 45/1a]

"Provider", a person who is obligated for furnishing or performing funeral services or the furnishing or delivery of any personal property, merchandise or services of any nature in connection with the final disposition of a dead human body. [225 ILCS 45/1a]

"Purchaser", the person who provides for the payment of money under or in connection with a pre-need contract. [225 ILCS 45/1a]

"Sales Proceeds", the entire amount paid to a seller, exclusive of sales taxes paid by the seller, finance charges paid by the purchaser, and credit life, accident or disability insurance premiums, upon any agreement or contract, or series or combination of agreements or contracts, for the purpose of performing funeral services or furnishing personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, including, but not limited to, the retail price paid for such services and personal property and merchandise. [225 ILCS 45/1a]

"Seller", the person who sells or offers to sell the pre-need contract to a purchaser. [225 ILCS 45/1a]

"Trustee", a person authorized to hold funds under the Act. [225 ILCS 45/1a]

"Trust Funds", all sales proceeds, including interest earned thereon, paid to any person, partnership, association or corporation upon any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of any personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, including, but not limited

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to, outer burial containers, urns, combination casket vault units, caskets and clothing, for future use at a time determined by the death of the person or persons whose body or bodies are to be disposed of. [225 ILCS 45/1]

Section 610.40 Classification of Pre-Need Contract by Funding Methods

a) For the purposes of this Part, pre-need contracts shall be classified as follows:

- 1) Pre-need contracts funded by trust deposits.
- 2) Pre-need contracts funded by life insurance or a tax-deferred annuity.

b) Pre-need contracts funded by trust agreements. In addition to complying with the requirements of Section 610.50, pre-need contracts funded by trust agreements must also contain:

- 1) Unless the pre-need contract has been made irrevocable, a statement that the purchaser prior to the death of the person(s) for whose funeral or burial such funds were paid, has the right to cancel the pre-need contract prior to need and, 30 days after written demand, have refunded all money held in trust and undistributed interest earned, except twenty-five percent (25%) of the total payments or \$300.00, whichever sum is less.
- 2) A statement that if after the contract beneficiary's death no goods or services are provided under the pre-need contract, the seller may keep no more than ten percent (10%) of the payments made under the pre-need contract or \$300.00, whichever sum is less. The seller shall refund to the legal heirs of the deceased, or as determined by probate action, the remainder of the trust funds.

c) Pre-need contracts funded by life insurance or tax-deferred annuity. In addition to complying with the requirements of Section 610.50, pre-need contracts funded by life insurance or a tax-deferred annuity must also contain:

- 1) A statement that the purchaser has the right to cancel the pre-need contract prior to need and, 30 days after written demand, receive a refund of the cash surrender value of the life insurance policy or tax-deferred annuity.
- 2) A statement that the pre-need contract must be revocable, except for a guaranteed price contract used for purposes of eligibility for Supplemental Security Income benefits (SSI), Medicaid or other public assistance. The assignment provision in the pre-need contract must contain the following statement on revocability in 12 point bold type:
This assignment may be revoked by the assignor or assignor's successor or, if the assignor is also the insured and deceased, by the representative of the insured's estate before the rendering of the cemetery services or goods or funeral services or goods. If the assignment is revoked, the death benefit under

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the life insurance policy or annuity contract shall be paid in accordance with the beneficiary designation under the insurance policy or annuity contract. [225 ILCS 45/2a(d)]

Section 610.50 Requirements for Pre-Need Contracts

- a) Pre-need contracts required to be filed and approved by the Comptroller must meet the criteria set forth in this Section. All pre-need contracts submitted on or after January 1, 1994, but before the effective date of this Part, shall be deemed to have been submitted on the effective date of this Part.

b) Required Contents:

- 1) Seller's name and address.
- 2) Name of purchaser and contract beneficiary.
- 3) Name and address of provider's principal office. If a provider is not named, a provision for provider to be selected by purchaser or the purchaser's survivor or legal representative at a later date.
- 4) Complete description and price of funeral merchandise and services.
- 5) Disclosure of whether the contract is guaranteed or non-guaranteed as to the price or if the contract contains both guaranteed price items and non-guaranteed price items a clear statement of which goods and services are guaranteed and which are not.

A) Each contract for goods and services for which the price is guaranteed shall contain the following statement in 12 point bold type: *THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC GOODS AND SERVICES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY BE REQUIRED FOR DESIGNATED GOODS AND SERVICES. ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED EXPENSES INCLUDING, BUT NOT LIMITED TO, CASH ADVANCES, SHIPPING OF REMAINS FROM A DISTANT PLACE, OR DESIGNATED HONORARIA ORDERED OR DIRECTED BY SURVIVORS. [225 ILCS 45/1a-1(a)(3)(A)]*

- B) Each contract for goods or services for which the price is not guaranteed shall contain the following statement in 12 point bold type:

THIS CONTRACT DOES NOT GUARANTEE THE PRICE THE BENEFICIARY WILL PAY FOR ANY SPECIFIC GOODS OR SERVICES. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A DEPOSIT TO BE APPLIED TOWARD THE FINAL PRICE OF THE GOODS OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES MAY BE REQUIRED. [225 ILCS 45/1a-1(a)(3)(B)]

- 6) Where the particular goods and services specified are unavailable at the time of delivery, the contract shall state that supplies and services similar in style and equal quality will be provided.
- 7) Any penalties or restrictions in performing the contract must be

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fully stated.

- 8) The method of funding the pre-need contract must be stated along with the following information:

- A) The relationship among the funding entity, the provider, if selected, and the seller.
- B) The impact on the pre-need contract if the following occurs:
 - i) Changes in the funding arrangements or use of funds.
 - ii) Penalties to be incurred if the purchaser fails to make payments.
 - iii) Penalties to be incurred or moneys or refunds to be received as a result of the cancellation.
 - iv) A difference between the proceeds of the funding arrangement and the amount actually needed for the funeral at-need.

- 9) The method for changing or selecting the designation of the provider must be fully described.

- 10) Unless the pre-need contract provides for more liberal cancellation terms, every pre-need contract sold outside of the seller's principal place of business is subject to the Federal Trade Commission rule (16 CFR 429) concerning the Cooling-Off Period for Door-to-Door Sales. The FTC Rule provides that with any door-to-door sale, the seller must furnish the purchaser a completed receipt or copy of any contract pertaining to the sale at the time the contract is signed. The seller must comply with the following terms:

- A) A completed receipt or copy of the pre-need contract at the time of signing must be furnished to the purchaser.
- B) The same language must be used in both the oral sales presentation and the written contract to the purchaser.
- C) Notice of purchaser's right to cancel within 3 days after signing pre-need contract. The notice must be as follows:
 - i) Located close to the signature line.
 - ii) Printed in 12 point bold type.
 - iii) State that "YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION."
- D) All monies must be refunded without penalty within 10 days after cancellation.

- c) Where a pre-need contract has been made irrevocable for the purpose of maintaining eligibility for Supplemental Security Income benefits (SSI), Medicaid or other public assistance, a licensee is required to provide written notification to the Illinois Department of Public Aid whenever the amount in trust or the death benefit under a life insurance policy or annuity contract exceeds the cost of the funeral merchandise or services by more than 25%, at the time the merchandise is provided and the services are performed.

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a) A Trustee of a trust account shall not invest trust funds in life insurance policies or tax deferred annuities unless the following requirements are met:

- 1) The company issuing the life insurance policies or tax-deferred annuities is licensed by the Illinois Department of Insurance and the insurance producer or annuity seller is licensed to do business in the State of Illinois;
- 2) Prior to the investment, the purchaser approves, in writing, the investment in life insurance policies or tax-deferred annuities;
- 3) Prior to the investment, the purchaser is notified by the seller in writing about the disclosures required for all pre-need contracts under Section 1a-1 of the Act, and the purchase of life insurance or a tax-deferred annuity is subject to the requirements of Section 2a of the Act;
- 4) Prior to the investment, the trustee informs the comptroller that trust funds shall be removed from the trust account to purchase life insurance or a tax-deferred annuity upon the written consent of the purchaser;
- 5) The purchaser retains the right to refund provided for in the Act, unless the pre-need contract is sold on an irrevocable basis as provided in Section 4 of the Act; and
- 6) Notice must be given in writing that the cash surrender value of a life insurance policy may be less than the amount provided for by the refund provisions of the trust account.

Section 610.70 Requirements for Pre-Need Booklet

a) No pre-need contract may be sold in this State unless it is accompanied by a booklet that contains the following requirements:

- 1) Requirements for pre-need contracts as set forth in Section 1a-1 of the Act.
 - 2) All disclosures in accordance with Sections 1a-1, 1b, 2a, 4, and 4a of the Act.
 - 3) The funding mechanism as set forth in Section 1a-1(6)(a) of the Act.
 - 4) Any other statutory requirements under the Act.
- b) A sample pre-need contract booklet referenced in this Section is provided in Section 610.Exhibit A. Any booklet substantially similar to that provided in Section 610.Exhibit A will be accepted by the Comptroller.

Section 610.80 Licensing of Sellers of Pre-Need Contracts Funded by Life Insurance or Tax-Deferred Annuity

a) Any seller of pre-need contract which is funded by life insurance or a tax-deferred annuity shall obtain an individual license unless the seller is an employee of a licensee. An insurance producer, annuity seller, or any individual who serves in that capacity shall not be

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considered an employee unless the employment relationship indicates otherwise for purposes of this Part.

- b) The annual report required to be filed by the licensee with the Office of the Comptroller may be filed by the company with which the insurance producer, annuity seller, or any individual acting in that capacity is affiliated so long as all books, records and other information as required under this Act are provided. The licensee shall remain responsible for the timely filing of the annual report and shall acknowledge in writing that the annual report is true and accurate.

Section 610.90 Schedule of Charges for Examinations for Licensee of Pre-Need Contracts Funded by Life Insurance or Tax-Deferred Annuity

a) The charge made by the Comptroller for an examination shall be based upon the total amount of funeral merchandise or services sold by a licensee and funded by life insurance or tax-deferred annuities for which the report is required under the Act.

b) The following fee schedule establishes the cost to be paid by licensees for the examination of books and records of the licensee:

Less than \$10,000.....	no charge
\$10,000 or more but less than \$50,000.....	\$10
\$50,000 or more but less than \$100,000.....	\$40
\$100,000 or more but less than \$250,000.....	\$80
\$250,000 or more.....	\$100

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Section 610. EXHIBIT A Pre-Need Contract Booklet**A CONSUMER'S GUIDE TO PRE-NEED FUNERAL PLANNING**

This guide is to assist consumers who are considering purchasing funeral merchandise and services in advance of need. The sale of funeral merchandise and services, and the requirements of pre-need contracts are regulated by the Illinois Funeral or Burial Funds Act [225 ILCS 45].

There are many advantages to pre-arranging and pre-funding funerals. It is becoming increasingly more common for both individuals and families to plan ahead. This guide has been developed to help consumers make informed choices as they consider pre-need funeral arrangements. Generally, pre-need funeral planning consists of a two-step process: selecting funeral merchandise and services, and setting aside funds for the future funeral. This guide endorses no specific company, product, funding arrangement or funeral plan.

I. Definitions of Terms

As used in this booklet, the following terms are defined as specified under Illinois law:

A. Contract Beneficiary: The person specified in the pre-need contract upon whose death funeral services or merchandise shall be provided or delivered.

B. Cash Advance Item: A cash advance item is any item obtained from a third party at your direction and on your behalf and paid for by the funeral provider. Cash advance items may include, but are not limited to, the following items: Cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities; and death certificates.

C. Funeral Goods: The undelivered goods which are sold or offered for sale directly to the public for use in connection with funeral services.

D. Funeral Services: Any services which may be used to care for and prepare deceased human bodies for final disposition, and arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

E. Licensee: A seller of a pre-need contract who has been licensed by the Comptroller under the Act.

F. Pre-need Contract: Any agreement which has for a purpose the furnishing or delivery of any personal property, merchandise, or performance of services of any nature in connection with the final disposition of a dead body.

G. Provider: A person who is obligated for furnishing or performing

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funeral services or the furnishing or delivery of any personal property, merchandise or services of any nature in connection with the final disposition of a dead human body.

H. Purchaser: The person who provides for the payment of money under or in connection with a pre-need contract.

I. Seller: The person who sells or offers to sell the pre-need contract to a purchaser.

J. Trustee: A person authorized to hold funds under the Act.

II. What is a Pre-Need Contract and What Facts Must it Contain?

A pre-need contract is a legal agreement entered into between a purchaser and a pre-need funeral seller. The pre-need contract sets out, in writing, the types of funeral merchandise and services that are being purchased. The Act requires a seller to include certain minimum information and disclosures in a pre-need contract. Before you sign a pre-need contract make sure that the seller has provided you with the information required by the Act and outlined in this booklet. The following is a brief summary of those essential requirements. A pre-need contract:

- A. Must be clearly written;**
- B. Must clearly state name and address of the purchaser and seller and the names of the beneficiary and provider. If the seller is not the provider and the provider is not named, then the pre-need contract must state that the provider will be selected by the purchaser, or the purchaser's survivor or legal representative at a later date;**
- C. Must contain a complete description of the funeral merchandise and services to be provided and the price;**
- D. Must state whether the contract price is guaranteed or not guaranteed. Where the contract contains both guaranteed price items and non-guaranteed price items, the contract must clearly establish which goods or services are guaranteed as to price and which are not.**

- 1. Each contract for funeral merchandise or service for which the price is guaranteed shall contain the following statement:**

"THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC GOODS AND SERVICES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY BE REQUIRED FOR DESIGNATED GOODS AND SERVICES. ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED EXPENSES INCLUDING, BUT NOT LIMITED TO, CASH ADVANCES, SHIPPING OF REMAINS FROM A DISTANT PLACE, OR DESIGNATED HONORIA ORDERED OR DIRECTED BY SURVIVORS." [225 ILCS

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45 1a]

2. Each contract for funeral merchandise or services for which the price is not guaranteed shall contain the following statement:

"THIS CONTRACT DOES NOT GUARANTEE THE PRICE THE BENEFICIARY WILL PAY FOR ANY SPECIFIC GOODS OR SERVICES. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A DEPOSIT TO BE APPLIED TOWARD THE FINAL PRICE OF THE GOODS OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES MAY BE REQUIRED." [225 ILCS 45/1a]

E. Must provide that if the chosen merchandise and services are not available at the time of delivery, that merchandise and services similar in style and at least equal in quality will be provided.

F. Must disclose any penalties or restrictions that apply to the pre-need contract.

G. Must disclose how the pre-need contract will be funded:

1. whether the pre-need contract is funded by a trust, life insurance or tax-deferred annuity;

2. the nature of the relationship between the person funding the pre-need contract, the provider, if selected, and the seller;

3. the impact on the pre-need contract of (i) any changes in funding method; (ii) penalties for failure to make payments; (iii) penalties resulting from cancellation of the pre-need contract; (iv) all information on what occurs if there is a difference between proceeds of the funding arrangement and the amount actually needed to pay for the funeral at-need;

4. the method for changing or selecting the designation of the provider.

III. What Is the Difference Between a Guaranteed Price Pre-Need Contract and a Non-Guaranteed Price Pre-Need Contract?

A pre-need contract is a guaranteed price contract which includes funeral merchandise or services for which, at the time the merchandise and services are provided, no additional charges may be required. Additional charges may only be incurred for unexpected expenses.

For example, an unexpected expense could result from an increase in the cost of a cash advance item, e.g., pallbearers, flowers, musician or the payment of an honorarium as directed by the survivors.

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A pre-need contract with no price guarantee for specific merchandise or services generally provides that the price will be established on the date when merchandise and services are to be provided. If the merchandise or services cost more than what has been set aside, the estate or survivors will have to pay the additional costs. However, if the funds provided under the contract are in excess of the current price of the merchandise and services, the consumer's estate or family is entitled to any excess.

Prices on the items you purchase may be fully guaranteed, conditionally guaranteed, or nonguaranteed. The contract which you execute will specifically disclose to you which goods and services are guaranteed as to price, which items are nonguaranteed, and the conditions to which a guarantee may be conditional. On items which are guaranteed, no additional charges will be incurred at the time the merchandise and/or service is provided. On items that are not guaranteed, no additional charges will be incurred at the time the merchandise and/or service is provided. On items that are not guaranteed, if at the time the merchandise and/or service is provided, the cost is more than what is specified in the contract, the estate or survivors will have to pay the additional cost.

IV. What Is the Difference Between a Revocable and an Irrevocable Pre-Need Contract?

A revocable pre-need contract may be canceled at any time after it is entered into. For amounts that have been placed in trust, upon cancellation, the purchaser is entitled to a refund within 30 days after cancellation of the amount placed in trust plus any undistributed interest earned. From this amount, the seller may retain the lesser of 25% paid or \$300.00.

An irrevocable pre-need contract cannot be canceled. This type of pre-need contract is advantageous when the beneficiary may qualify for public benefits in the future. A prearranged funeral and burial is an exempt asset. This does not mean that the purchaser cannot change the funeral provider if he/she wishes to do so.

V. What If the Supplies and Services Are Not Available at the Time of Delivery?

If this circumstance occurs, the provider must provide funeral merchandise or services similar in style and at least equal in quality to those originally selected by the purchaser.

VI. Can the Consumer Cancel a Pre-Need Contract Without Incurring Any Penalty?

Many pre-need contracts include cancellation terms without penalty. Be sure to

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read your contract carefully. Sellers are required by law to make a refund without penalty, but only if the contract was entered in your home or at a location that is not the seller's regular place of business. All pre-need contracts are subject to the Federal Trade Commission Rule (FTC Rule) concerning the Cooling-Off Period for Door-to-Door Sales. (16 CFR, Part 429) The FTC Rule provides that with any door-to-door sale the seller must furnish the purchaser a completed receipt or copy of any contract pertaining to the sale at the time the contract is signed. The contract must be in the same language used during the oral sale presentation, and it must contain notice of the purchaser's right to cancel the contract within three (3) business days from the time the purchaser signs the pre-need contract. This notice must be close to the signature line, printed in bold face type, and must read as follows:

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See attached notice of cancellation form for an explanation of this right."

The three-day period does not include Sundays and certain holidays. The FTC Rule further provides that the purchaser may cancel the contract without penalty and have any money refunded within ten (10) days.

VII. What Are the Different Methods a Purchaser May Use to Fund the Pre-Need Contract?

The choice of how to pay for the pre-need contract is solely the consumer's based upon the different offerings by a seller. The seller may make available any of three methods to fund the pre-need contract, either (1) paying money into a trust account, (2) purchasing a life insurance policy or (3) purchasing a tax deferred annuity.

A. Payment of Money into a Trust Account. If you elect to pay the seller money for the pre-need merchandise or services, all of the payments and all undistributed interest earned thereon are required to be held in trust in the name of the purchaser, except for the following amounts:

1. 15% of the payments relating to the purchase of the outer burial container may be retained by the seller; or
2. 5% of the payments for all other services and merchandise may be retained by the seller; and
3. No more than 25% of the annual undistributed earnings on the trust fund may be held by the trustee as an administrative fee.

The Act also provides that a purchaser has a right to withdraw the money paid

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to a seller prior to death, and the seller is obligated to refund the money held in trust, and all undistributed interest earned, except a fee of 25% of the total payments made or \$300.00, whichever is less.

B. Life insurance and Tax-Deferred Annuity Contract. Under these funding methods, if offered by the seller, you may elect to pay the premium required under the terms of the life insurance policy or tax-deferred annuity contract. Under either of these options, the money paid may grow so that more money is available for the funeral and burial merchandise and services purchased under the pre-need contract. Neither the seller nor the provider may be named as the owner or beneficiary of the life insurance policy or tax-deferred annuity contract.

An assignment of the death benefit of the life insurance policy or tax-deferred annuity will normally be made to the seller, and the proceeds will then be used to pay for the merchandise and services actually provided. An assignment of the proceeds of the life insurance policy or tax-deferred annuity can be revoked unless the pre-need contract is a guaranteed price contract or the assignment of the proceeds has been made irrevocable in order for the purchaser to receive public assistance, such as Medicaid or Supplemental Security Income benefits (SSI).

In the event you cancel the pre-need contract, this would not automatically cancel the life insurance policy or tax-deferred annuity.

However, if you did cancel the life insurance policy, you would be entitled to receive the cash surrender value of the life insurance policy. It is important that the purchaser investigate the amount of cash surrender value of the life insurance policy and review the policy for any additional refund rights.

C. If the money you pay under a pre-need contract is initially placed in a trust account, the trustee of the trust account may ~~not~~ purchase life insurance policies or tax-deferred annuities on your behalf unless you have approved, in writing, the selection of a life insurance policy or annuity and you have been given the information required under paragraph B above.

VIII. If I Select to pay for My Pre-Need Contract by Payment of Money into a Trust Account, Are There Tax Consequences?

Depending on the type of trust, under the current IRS rule, the trust account may be taxable on a current basis to the purchaser or designated beneficiary. If taxable and determinable, the trustee will report to the purchaser the amount to be taxed on an annual basis.

IX. Are There Any Limitations on the Withdrawal of Pre-Need Funds by the Seller?

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Yes, there are limitations that have been placed upon the withdrawal of pre-need funds. Amounts that have been deposited into trust accounts may not be withdrawn until the death of the person for whose funeral the funds are paid. Likewise, life insurance policies or tax-deferred annuities cannot be surrendered until the death of the person for whose funeral the funds are paid. This limitation does not apply to refunds to the person who originally paid the money under the pre-need contract or to the owner of the policy purchased under the pre-need contract upon cancellation of the contract.

**X. Does a Provider Have to Be Selected When
Entering into a Pre-Need Contract?**

(This paragraph is optional where the seller is also the provider)

No, a provider, the person or entity who will be providing the services and merchandise, may be selected at the time the merchandise and services are chosen, or you, your survivor or legal representative may designate the provider later. If you select a provider, you have a right to change the provider later at anytime.

**XI. If the Seller Is Not the Provider, How Do I Know Who Will
Provide the Funeral Goods and Services?**

If the provider has been selected, there must be a binding agreement between the seller and the provider. Also, the pre-need contract must disclose the identity of the provider and the nature of the agreement between the seller and the provider. This information must be disclosed to the purchaser prior to the time of sale and before the receipt of any proceeds from the purchaser.

XII. Conclusion

Pre-need funeral planning is a logical and popular component of an estate plan. These arrangements can provide peace of mind in that you know you have taken care of an important decision. Making plans in advance also allows you to make decisions which will best meet your needs and those of your family. However, it is important that you, the consumers, are fully aware of your rights and obligations when making pre-need funeral arrangements. We hope that this booklet will assist you in making informed choices.

If you should have any questions concerning any of the information contained in this booklet, you may discuss it with your funeral director or you may contact the following:

Director of Cemetery and Burial Trusts
Office of the Comptroller
Suite 15-500

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James R. Thompson Center
100 West Randolph Street
Chicago, Illinois 60601
312/814-2451
Fax - 312/814-2986

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Intergovernmental Joint Insurance Pool Annual Audited Financial Report

- 2) Code Citation: 50 Ill. Adm. Code 2405

- 3) Section Numbers: Proposed Action:

2405.10	New Section
2405.20	New Section
2405.30	New Section
2405.40	New Section

- 4) Statutory Authority: Implementing and authorized by Section 6 of the Intergovernmental Cooperation Act [5 ILCS 220/6] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to P.A. 89-97, effective July 7, 1995 [5 ILCS 220/6], the Director of Insurance is required to promulgate regulations to implement audit and reporting requirements for local government joint self insurance pools. In addition, pursuant to Section 2405.30, the Department will be requiring these pools to register with us.

- 6) Will this proposed Rule replace emergency rule currently in effect? No

- 7) Does this Rule contain an automatic repeal date? No.

- 8) Does this proposed Rule contain incorporations by reference? No.

- 9) Are there any other proposed amendments pending on this Part? No.

- 10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

David VanLieshout	Denise Fuchs
Assistant Chief Counsel	Rules Unit Supervisor
Department of Insurance	Department of Insurance
320 West Washington	320 West Washington
(or)	
Springfield, IL 62767	Springfield, IL 62767
(217) 782-8216	(217) 785-8560

- 12) Initial Regulatory Flexibility Analysis: This new rule will affect small municipalities that participate in joint insurance risk pools under the

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NOTICE OF PROPOSED RULES

Intergovernmental Cooperation Act.

- 13) Regulatory Agenda on which this Rule was summarized: January 1996

The full text of the Proposed Rule begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER dd: DIRECTOR OF INSURANCE,
HEARING AND REVIEW

PART 2405
INTERGOVERNMENTAL JOINT INSURANCE POOL
ANNUAL AUDITED FINANCIAL REPORT

Section	Purpose
2405.10	Definitions
2405.20	Registration
2405.30	Financial Statements

AUTHORITY: Implementing and authorized by Section 6 of the Intergovernmental Cooperation Act [5 ILCS 220/6] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 2405.10 Purpose

The purpose of this Part is to set forth standards for an annual audit and report required of joint insurance pools operating pursuant to the authority granted under Section 6 of the Intergovernmental Cooperation Act [5 ILCS 220/6].

Section 2405.20 Definitions

Director means the Director of the Illinois Department of Insurance.

Independent Actuarial Opinion means an opinion expressed by a member of the American Academy of Actuaries or Casualty Actuarial Society.

Independent Certified Public Accountant means an independent certified public accountant or independent accounting firm in good standing with the American Institute of CPA's, which is registered to practice in Illinois.

Pool means the joint self-insurance pool created by intergovernmental contract pursuant to Section 6 of the Intergovernmental Cooperation Act [5 ILCS 220/6].

Section 2405.30 Registration

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- a) Each Pool operating prior to January 1, 1997 shall register with the Director within 60 days thereof. In addition, each Pool shall annually register with the Director no later than March 1st of each year.
- b) Each registration shall include:
 - 1) A general statement of the purposes of the Pool.
 - 2) A list of names, addresses, official positions and biographical affidavits of the persons responsible for the conduct of the affairs of the Pool.
 - 3) Location of the administrative offices of the Pool.
 - 4) A list identifying the public agencies participating in the Pool.
- c) Each Pool shall keep current the information required to be disclosed in its registration statements by reporting all material changes or additions to the Director within 30 days after the end of the month of each change or addition.

Section 2405.40 Financial Statements

Each Pool shall, no later than 150 days after the end of its immediately preceding fiscal year, file with the Director an audited financial statement, prepared in accordance with generally accepted accounting principles, reporting the financial condition of the Pool as of the end of its immediately preceding fiscal year and changes in the surplus funds for the year then ending.

- a) The annual audited financial report shall include the following:
 - 1) Report of an independent certified public accountant.
 - 2) Balance sheet reporting assets, liabilities, and surplus funds.
 - 3) Statement of gain or loss from operations.
 - 4) Statement of cash flows.
 - 5) Statement of changes in surplus funds.
 - 6) Notes to the financial statements.
- b) In connection with the annual audited report, the Pool shall file an independent actuarial opinion as to the sufficiency of its loss and loss adjustment expense reserves.

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NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Preferred Provider Program Administrators

2) Code Citation: 50 Ill. Adm. Code 6501

3) Section Numbers: Proposed Action:

6501.10	Repealed
6501.20	Repealed
6501.30	Repealed
6501.40	Repealed
6501.50	Repealed
6501.60	Repealed
6501.70	Repealed
6501.80	Repealed
6501.90	Repealed
6501.100	Repealed

4) Statutory Authority: Implementing and authorized by Article XX 1/2 and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XX 1/2 and 401].

5) A Complete Description of the Subjects and Issues Involved: In the next *Illinois Register* the Department will be moving this Part to Subchapter 2 entitled "Accident and Health Insurance" under new Part number 2050. This Part implements Section 370f of the Illinois Insurance Code and it therefore belongs in Subchapter 2 of the Illinois Administrative Code.

6) Will this proposed repealer replace emergency rule currently in effect?
No

7) Does this repealer contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This repealer will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Denise Fuchs
Department of Insurance
320 West Washington

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

Springfield, IL 62767
(217) 785-8560

12) Initial Regulatory Flexibility Analysis: The Department has determined that this proposed repealer will not affect small businesses.

13) Regulatory Agenda on which this amendment was summarized: January 1995

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER hhh: HEALTH CARE REIMBURSEMENT

PART 6501

PREFERRED PROVIDER PROGRAM ADMINISTRATORS (REPEALED)

Section	Authority
6501.10	Purpose
6501.20	Definitions
6501.30	Administrators Not to Assume Underwriting Risk
6501.40	Registration
6501.50	Annual Registration Fee
6501.60	Fiduciary and Bonding Requirements
6501.70	Maintenance of Records
6501.80	Examination
6501.90	Severability

AUTHORITY: Implementing and authorized by Article XX 1/2 and further authorized Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XX 1/2 and 401].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 18326, effective November, 20, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 7805, effective April 29, 1986; repealed at 20 Ill. Reg. _____, effective _____.

Section 6501.10 Authority

This Part implements and is authorized by Article XX 1/2 and is authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1985, ch. 73, pars. 928f et. seq. and 1013).

Section 6501.20 Purpose

The purpose of this Part is to implement Article XX 1/2 of the Illinois Insurance Code which, in part, provides for the regulation of administrators of preferred provider programs. This Part defines the authority of an administrator to operate preferred provider programs in this State, establishes criteria for the registration of administrators with the Director of Insurance and establishes an annual registration fee. This Part applies only to administrators of preferred provider programs subject to Article XX 1/2 of the Illinois Insurance Code.

Section 6501.30 Definitions

"Administrator" means any person, partnership or corporation, other

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than an insurer or health service corporation or health maintenance organization holding a certificate of authority under the "Health Maintenance Organization Act," (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 401 et seq.) as now or hereafter amended, or self-insured employer, employee benefit trust fund or other ERISA exempt organization, that arranges, contracts with, or administers contracts with a provider whereby beneficiaries are provided an incentive to use the services of such provider.

"Beneficiary" means an individual entitled to reimbursement for covered expenses of health care services under a program where the beneficiary has an incentive to utilize the services of a provider which has entered into an agreement or arrangement with an administrator.

"Health Care Services" means health care services or products rendered or sold by a provider within the scope of the provider's license or legal authorization. The term includes, but is not limited to, hospital, medical, surgical, dental vision and pharmaceutical services or products.

"Health Service Corporation" means a hospital service corporation, medical service plan, voluntary health service plan, vision service plan, dental service plan, or pharmaceutical service plan licensed under the applicable paragraphs of Chapter 32 of the Illinois Revised Statutes as now or hereafter amended.

"Financial Institution" means a Federal or State chartered bank(s) or savings and loan institution.

"Provider" means an individual or entity duly licensed or legally authorized to provide health care services.

"Preferred Provider" means any provider who has entered into an agreement with an administrator relating to health care services which may be rendered to beneficiaries under a preferred provider program.

"Preferred Provider Arrangements" means policies, agreements or arrangements with providers relating to the amounts to be charged to insureds or beneficiaries for health care services which can include incentives for the insured or beneficiary to use such services.

"Preferred Provider Program" means a system to make preferred provider arrangements available to insured or beneficiaries.

Section 6501.40 Administrators Not to Assume Underwriting Risk

An administrator may negotiate and make arrangements with providers in

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compliance with Article XX 1/2 of the Illinois Insurance Code, and market and otherwise make available such arrangements to insurance companies, health service corporations, fraternal benefit societies or self-insuring employers or health and welfare trust funds and to their subscribers; provided however, that in performing such functions the administrator shall not accept any underwriting risk in the form of a premium or capitation payment for its services.

Section 6501.50 Registration

- a) No person, partnership or corporation shall act as an administrator of a preferred provider program after the effective date of this Part until such time that such person, partnership or corporation has registered with the Director of Insurance as required by this Part. An administrator doing business in this State prior to the effective date of this rule shall register within 60 days thereafter. In addition, all administrators shall annually register with the Director of Insurance as required by this rule. Annual registration statements must be filed with the Director no later than March 1st of each year.
- b) Each administrator must keep current the information required to be disclosed in its registration statements by reporting all material changes or additions to the Director of Insurance within 30 days after the end of the month of each change or addition. A material change or addition is any modification of the following information in the registration statement, excluding typographical corrections: changes in the personnel responsible for the conduct of the affairs of the administrator, changes in the terms and conditions of administrative and provider agreements, changes to the preferred provider program disclosure statements, changes in bond or fiduciary accounts and changes to the location of the administrator's office.
- c) Each applicant for registration shall file with the Director of Insurance the following information and documents on a form PPA-1 prescribed by the Director:
 - 1) A general statement of the services to be offered through the administrator's proposed plan of operations, including the method of marketing the program and the geographic area proposed to be service by the program; and
 - 2) A list of the names, addresses, official positions and biographical affidavits of the persons responsible for the conduct of the affairs of the administrator; and
 - 3) Sample copies of administrative agreements and provider agreements utilized by the administrator. If the terms and conditions in such agreements may vary, the filing of one complete sample agreement together with a description of all variable terms and conditions will satisfy this requirements; and
 - 4) A roster of preferred providers and a source for the beneficiary to contact regarding changes in such providers; and
 - 5) A general description of the means by which the administrator

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- assures that the health care services to be rendered under the preferred provider program are reasonably accessible and available to beneficiaries; and
- 6) Copies of the preferred provider program disclosure statements required to be furnished to beneficiaries by Section 370m of the Illinois Insurance Code, and correlary advertising material; and
 - 7) A description of programs or utilization review and timely resolution of questions, complaints and grievances; and
 - 8) A description of any fiduciary account established by the administrator, including the location and identification number of the account, established and maintained pursuant to Section 370e of the Illinois Insurance Code and Section 6501.70(a) of this Part; and/or a bond in compliance with Section 370e of the Illinois Insurance Code and Section 6501.70(b) of this Part. If a bond is submitted the administrator shall also furnish a certification of the total estimated annual reimbursements under the preferred provider program(s), supported by the methodology used to arrive at such figure; and
 - 9) Location of the administrative offices of the administrator located in this State and regular business hours during which offices are open; and
 - d) No Administrator shall offer any preferred provider program to residents of this State until the Director has determined that the requirements of Article XX 1/2 of the Illinois Insurance Code and this Part have been met, and has placed such registration material on file. The Director shall make such determination within 60 days after receipt of the registration information required by this Section and the registration fee required by Section 6501.60 of this Part.
 - e) All information filed with the Director pursuant to this Part regarding the methods and/or amounts of reimbursement of providers and the administrator under the preferred provider program(s) is deemed to be confidential and will not be released without subpoena or written consent to the affected administrator.

Section 6501.60 Annual Registration Fee

Each administrator doing business in this State shall pay to the Director of Insurance a registration fee of \$100.00 on the initial date of application for registration and annually thereafter on or before March 1st of each succeeding year so long as such registration is maintained.

Section 6501.70 Fiduciary and Bonding Requirements

- a) This section outlines requirements for administrators who must establish either a bond or a fiduciary account pursuant to Section 370(1) of the Illinois Insurance Code.
- b) Administrators who establish and maintain a fiduciary account pursuant to Section 3701 of the Illinois Insurance Code are subject to the

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following requirements:

- 1) Monies collected for reimbursement under preferred provider programs which the administrator holds more than 15 days shall be deposited in a special fiduciary account in a financial institution located in this State, which account shall be designated as an "Administrator Trust Fund", hereinafter referred to as "ATF". All checks drawn on the ATF shall indicate on their face that they are drawn on the ATF of the administrator.
- 2) An administrator that operates more than one preferred provider program may establish separate fiduciary accounts for each such program, or may maintain a consolidated fiduciary account for such programs. If a consolidated Administrator Trust Fund account is maintained the administrator's records shall clearly indicate for each program fund deposits and disbursements.
- 3) No disbursement shall be made from the Administrator Trust Fund Account other than payment for provider services under the preferred provider programs(s) operated by the administrator and administrative fees due the administrator pursuant to a written agreement.
- 4) For each preferred provider program for which an ATF is maintained, the balance in the ATF shall at all times be the amount of funds deposited plus accrued interest, if any, less authorized disbursements.
- 5) If the ATF is interest bearing or income producing, the full nature of the account must first be disclosed to the principal, whether insurer or other payor of services under the preferred provider program, on whose behalf the funds are or will be held. At this time the administrator must procure the written consent and authorization from this principal for the investment of money and retention of interest or earnings.
- 6) An administrator may place ATF funds in interest bearing or income producing investments and retain the interest or income thereon, providing the administrator obtains the prior written authorization of the principals on whose behalf the funds are to be held. In addition to savings and checking accounts, an administrator may invest in the following:
 - A) Direct obligations of the United States of America or U.S. Government agency securities with maturities of not more than one year;
 - B) Certificates of deposit, with a maturity of not more than one year, issued by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC), so long as any deposit does not exceed the maximum level of insurance protection provided to certificates of deposits held by such institutions.
 - C) Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System provided:

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- i) The value of the repurchase agreement is collateralized with assets which are allowable investments for ATF funds; and
- ii) The collateral has a market value at the time the repurchase agreement is entered into at least equal to the value of the repurchase agreement; and
- iii) The repurchase agreement does not exceed 30 days.
- D) Commercial paper, provided the commercial paper is rated at least P-1 by Moody's Investors Service, Inc. or at least A-1 by Standard & Poor's Corporation;
- E) Money Market Funds, provided the money market fund invests exclusively in assets which are allowable investments pursuant to subsection A) through D) above for ATF funds;
- F) Each investment transaction must be made in the name of the administrator's ATF. The administrator must maintain evidence of any such investments. Each investment transaction must flow through the administrator's ATF.
- 7)
 - A) Administrators shall maintain detailed books and records which reflect all transactions involving the receipt and disbursement of funds in the ATF.
 - B) The detailed preparation, journalizing and posting of such books and records must be maintained on a timely basis and all journal entries for receipts and disbursements shall be supported by evidential matter, which must be referenced in the journal entry so that it may be traced for verification. Administrators shall prepare and maintain monthly financial institution account reconciliations of any ATF established by the administrator. The minimum detail required shall be as follows:
 - i) The sources, amounts and dates of monies received and deposited by the administrator.
 - ii) The date and person to whom a disbursement is made. If the amount disbursed does not agree with the amount billed or authorized, the administrator shall prepare a written record as to the reason.
 - iii) A description of the disbursement in such detail to identify the source document substantiating the purpose of the disbursement.
 - c) An Administrator who posts or causes to be posted a bond of indemnity pursuant to Section 3701 of the Illinois Insurance Code shall do so subject to the following requirements:
 - 1) An administrator who operates more than one preferred provider program subject to Article XX 1/2 of the Illinois Insurance Code may maintain a bond of indemnity of any of such programs.
 - 2) The bond shall be held by the Director of Insurance in favor of the beneficiaries and payors of services under the preferred provider program(s) operated by the administrator. The bond

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shall be executed by a surety company and payable to any party injured under the terms of the bond.

- 3) The bond shall be in continuous form and shall be in the amount of not less than 10% of the total estimated annual reimbursements under the preferred provider program(s) covered by the bond. The amount of the bond shall be determined in accordance with the methodology submitted by the administrator pursuant to Section 6501.50c(8) of this Part.

- 4) Such bond shall remain in force and effect until the surety is released from liability by the Director or until the bond is cancelled by the surety. The surety may cancel the bond and be released from further liability thereunder upon 30 days written notice in advance to the Director. Such cancellation shall not affect any liability incurred or accrued thereunder before the termination of the 30-day period. Upon receipt of any notice of cancellation, the Director shall immediately notify the administrator.

Section 6501.80 Maintenance of Records

- a) All administrators shall maintain detailed books and records of all of their transactions as an administrator of preferred provider programs. The records required to be maintained by this Section shall include:

- 1) the books and records of ATF transactions required by Section 6501.70 of this Part; and
 - 2) books and records regarding all funds received or disbursed by the administrator; and
 - 3) all contracts or agreements with providers, insurers or other payors of the services under a preferred provider program; and
 - 4) All documents relating to the administrator's preferred provider program, including but not limited to beneficiary disclosure documents required by Section 370m of the Illinois Insurance Code, beneficiary complaints and documents relating to the administrators utilization review program.
- b) Records shall be maintained for at least three years after the termination of the preferred provider program to which they relate.

Section 6501.90 Examination

- a) The Director or his designee may examine any applicant for registration or any registrant when he obtains information which gives him reason to believe that the applicant or registrant may be in violation of this Part or any applicable provision of the Insurance Code, when he receives a complaint or when the applicant has a history of violations of the Illinois Insurance Code.

- b) Any administrator being examined shall provide to the Director or his designee convenient and free access, at all reasonable hours at their offices, to all books, records, documents and other papers relating to

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such administrator's business affairs. The Director or his designee shall not have access to beneficiary medical records which are protected by the Medical Studies Act (Ill. Rev. Stat. 1985, ch. 110, pars. 8-2101 et seq.).

- c) The Director or his designee may administer oaths and thereafter examine any individual about the business of the administrator. The expenses of examination under this Section shall be assessed against the administrator being examined in accordance with Section 408(3) of the Illinois Insurance Code (Ill. Rev. Stat. 1983, ch. 73, par. 1020(3)).
- e) The examiner designated by the Director shall make a written report if he alleges that there is a violation of this Part, any applicable provisions of the Illinois Insurance Code or any other applicable Part of Title 50 of the Illinois Administrative Code. The report shall be verified by the examiner. The report must be made to the Director within 45 days of the conclusion of the examination. If no report is to be made, the administrator shall be so notified.

- f) If a report is made, the Director shall either deliver a duplicate thereof to the administrator being examined or send such duplicate by certified or registered mail to the administrator's address specified in the records of the Department. The Director shall afford the administrator an opportunity to request a hearing to object to the report. The administrator may request a hearing within 30 days after receipt of the duplicate of the examination report by giving the Director written notice of such request together with written objections to the Report. Any hearing shall be conducted in accordance with Sections 402 and 403 of the Illinois Insurance Code (Ill. Rev. Stat. 1985, ch. 73, pars. 1014 and 1015) and 50 Ill. Adm. Code 2402. The right to hearing is waived if the delivery of the report is refused or the report is otherwise undeliverable to the address on file with the Department or the administrator does not timely request a hearing. After the hearing or upon expiration of the time period during which an administrator may request a hearing, if the examination reveals that the administrator is operating in violation of any applicable provisions of the Illinois Insurance Code, any applicable Part of Title 50 of the Illinois Administrative Code or prior order, the Director, in the written order, may require the administrator to take action to correct such violation in accordance with the report or examination hearing. If the Director issues an order, it shall be issued within 90 days after the report is filed, or if there is a hearing, within 90 days after the conclusion of the hearing. The order is subject to review under the Administrative Review Law.

Section 6501.100 Severability

If any Section, term or provision of this Part shall be adjudged invalid by a court of competent jurisdiction for any reason, such judgment shall not affect,

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impair or invalidate any other Section, term or provision of this Part, and the remaining Sections, terms and provisions shall be and remain in full force and effect.

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- 1) Heading of the Part: Small Employer Carrier Actuarial Certification and Documentation Requirements

- 2) Code Citation: 50 Ill. Adm. Code 5100

Section Numbers:	Proposed Action:
5100.10	New Section
5100.20	New Section
5100.30	New Section
5100.40	New Section
5100.50	New Section

- 4) Statutory Authority: Implementing and authorized by the Small Employer Rating, Renewability and Portability Health Insurance Act [215 ILCS 95].

- 5) A Complete Description of the Subjects and Issues Involved: This new rule will set standards for the filing and contents of a small employer carrier actuarial certification.

- 6) Will this proposed Rule replace emergency rule currently in effect? No

- 7) Does this Rule contain an automatic repeal date? No

- 8) Does this proposed Rule contain incorporations by reference? Yes

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rule will not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

David Van Lieshout	Denise Fuchs
Assistant Chief Counsel	Rules Unit Supervisor
Department of Insurance	Department of Insurance
320 West Washington	320 West Washington
Springfield, IL 62767	Springfield, IL 62767
(217) 782-8216	(217) 782-8560

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this new rule will not affect small businesses.

- 13) Regulatory Agenda on which this Rule was summarized: January 1996

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NOTICE OF PROPOSED RULES

The full text of the Proposed Rule begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER hhh: SMALL EMPLOYER RATING, RENEWABILITY AND
PORTABILITY HEALTH INSURANCE

PART 5100
SMALL EMPLOYER CARRIER ACTUARIAL CERTIFICATION AND
DOCUMENTATION REQUIREMENTS

Section	Purpose
5100.10	Purpose
5100.20	Applicability and Scope
5100.30	Definitions
5100.40	Small Employer Carrier Rating and Underwriting Records
5100.50	Actuarial Certification and Format

AUTHORITY: Implementing and authorized by the Small Employer Rating, Renewability and Portability Health Insurance Act [215 ILCS 95].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 5100.10 Purpose

The purpose of this Part is to set standards for the filing and contents of a small employer carrier actuarial certification.

Section 5100.20 Applicability and Scope

This Part (A.) shall apply to each health benefit plan for a small employer that is delivered, issued for delivery, renewed or continued in this State after January 1, 1994. For purposes of this Section, the date a plan is continued shall be the first rating period which commences after January 1, 1994.

The Small Employer Rating Renewability and Portability Health Insurance Act (the Act) shall apply to any such health benefit plan which provides coverage to employees of a small employer, except that the Act shall not apply to individual health insurance policies.

(B.)(1) Except as provided in paragraph (2) for the purposes of the Act, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by the Act shall apply as if all health benefit plans delivered or issued for delivery to small employers in this State by such affiliated carriers were issued by one carrier.

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(2) An affiliated carrier that is a health maintenance organization having a certificate of authority under Section 2-1 of the Health Maintenance Organization Act [215 ILCS 125/2-1] may be considered to be a separate carrier for the purposes of the Act. [215 ILCS 95/15]

Section 5100.30 Definitions

'Actuarial Certification' means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the Director.... [215 ILCS 95/10] pursuant to Section 5100.40(c) of this Part.

'Director' means the Director of Insurance. [215 ILCS 95/10]

'Health Benefit Plan' or 'Plan' shall mean any hospital or medical expense-incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. Health benefit plan shall not include individual, accident-only, credit, dental, vision, Medicare supplement, hospital indemnity, long term care or disability income insurance, workers' compensation or similar insurance, or automobile medical payment insurance. [215 ILCS 95/10]

'Other Individual Acceptable to the Director' means an individual who is not a member of the American Academy of Actuaries but who has met the following requirements.

The small employer carrier who wishes to utilize the services of an individual who is not a member of the American Academy of Actuaries must, in advance of the performance of the task, obtain approval from the Director. The determination of qualification will be based upon a demonstration that the individual has the appropriate experience and educational background. An actuarial certification completed by a person other than a member of the American Academy of Actuaries who has not been pre-approved by the Director will not be accepted.

'Review of Appropriate Records' means a review conducted in accordance with the Actuarial Standards Board document entitled Actuarial Standard of Practice No. 23 which addresses the Data Quality issue and gives guidance on what level of review would be required in a review of appropriate records.

'Small employer' means any person, firm, corporation, partnership, or association that is actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding calendar quarter, employed at least three (3) but no more than twenty-five (25) eligible employees, the majority of whom were employed in this State.

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In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of State taxation, shall be considered one employer. [215 ILCS 95/10]

'Small Employer Carrier' means a carrier that offers health benefit plans covering eligible employees of one or more small employers in this State. [215 ILCS 95/10]

Section 5100.40 Small Employer Carrier Rating and Underwriting Records

Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrates that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles. [215 ILCS 95/45] The Director requires that the small employer carrier maintain and/or authorize access to these records for a period of three years from the date of certification. This shall include any workpapers prepared in support of the actuarial certification.

Section 5100.50 Actuarial Certification and Format

a) An actuarial memorandum must document the demonstrations used by the actuary to support the opinion provided in the actuarial certification. The Actuarial Standards Board document entitled Actuarial Standard of Practice No. 23 addresses the Data Quality issue and gives guidance on what level of documentation must be maintained.

b) An actuarial certification must contain the following:

- 1) The full legal name of the small employer carrier for which this certification is being submitted.
 - 2) A statement as to whether the undersigned actuary is a member of the American Academy of Actuaries, and if not a member, they must indicate when they were pre-approved by the Director pursuant to Section 5100.30 of this Part.
 - 3) The period for which the certification is being made.
 - 4) The actuary may rely on others for data, but may not rely on another actuarial opinion. The nature and extent of reliance must be disclosed in the actuarial certification. The extent of reliance is subject to the Actuarial Standards of Practice No. 23 on Data Quality.
 - 5) The actuarial certification must contain a statement that the small employer carrier's rates either are or are not in compliance with Section 30 of the Small Employer Rating, Renewability and Portability Health Insurance Act [215 ILCS 95/30].
- If the actuary determines that the small employer carrier's rates or rating factors do not comply with statutory requirements, the

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following statement must be included with a detailed description of the areas in which the rates were not in compliance, and the small employer carrier's plan to correct the areas of non-compliance:

In the course of my review of the compliance of the rates and _____
 (small employer carrier name) _____, I discovered that
 (small employer carrier's) _____ rates (or rating
 factors) did not comply with the statutory requirements of
 Illinois in the following ways: (Include the explanation
 and efforts to correct.)

6) Health benefit plans delivered or issued for delivery prior to January 1, 1994 which meet the requirements of Section 30(A.)(5) of the Act [215 ILCS 95/30(A.)(5)] but do not meet the requirements of Section 30(A.)(3) [215 ILCS 95/30(A.)(3)] do not have to be reported as exceptions to Section 30 until the period beginning January 1, 1997 through January 1, 1998 to be certified March 15, 1998.

7) An actuarial certification must be submitted in the following format:

I, _____ (name) _____ am an officer/employee of OR am associated with the firm of _____ (employer name) _____ and am a member of the American Academy of Actuaries.

I, _____ (name) _____ am an officer/employee of OR am associated with the firm of _____ (employer name) _____ and am not a member of the American Academy of Actuaries. I meet the definitional standards of the "Other Individual Acceptable to the Director" and have received the Director's prior approval on _____ (date) _____ pursuant to 50 Ill. Adm. Code 5100.30.

I am completing the small employer carrier actuarial certification for _____ (name of small group carrier) _____. I am familiar with the applicable statutory provisions of 215 ILCS 95 and requirements of 50 Ill. Adm. Code 5100.

This certification is for the period from _____ through _____.

I relied on listings (summaries, rate manuals, etc.) of relevant data prepared by _____ (name and title of company officer responsible for preparing the underlying records) _____.

Based upon my review, I find that the small employer carrier (is/is not) in compliance with Section 30 of the Small

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Employer Rating, Renewability and Portability Health Insurance Act [215 ILCS 95/30].

(If not in compliance, include required explanation and detail of efforts to correct as required by Section 5100.50(b)(5) of this Part.)

In other respects, my examination included a review of the actuarial methods in order to assure that the rating methods of the small employer carrier were actuarially sound.

Actuarial methods, considerations and analysis used in forming my opinion conform to the appropriate Standards of Practice, which standards form the basis of the statement of opinion.

 Actuary Name (typewritten)

 Signature of Actuary

 Date

8) The actuarial certification required by this Part must be submitted to:
 Illinois Department of Insurance
 Life Actuarial Section
 320 West Washington Street
 Springfield, Illinois 62767-0001

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Valuation of Life Insurance Policies (Including the Introduction and Use of New Select Mortality Factors)

- 2) Code Citation: 50 Ill. Adm. Code 1409

Section Numbers:	Proposed Action:
1409.10	New Section
1409.20	New Section
1409.30	New Section
1409.40	New Section
1409.50	New Section
1409.60	New Section
1409.APPENDIX A	New Section
1409.APPENDIX A ILLUSTRATION A	New Section
1409.APPENDIX A ILLUSTRATION B	New Section
1409.APPENDIX A ILLUSTRATION C	New Section
1409.APPENDIX A ILLUSTRATION D	New Section
1409.APPENDIX A ILLUSTRATION E	New Section
1409.APPENDIX A ILLUSTRATION F	New Section

- 4) Statutory Authority: Implementing Section 223 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].

- 5) A Complete Description of the Subjects and Issues Involved: Part 1409 allows insurance companies to hold lower reserves for their life insurance policies, through the use of lower mortality assumptions. Part 1409 also requires insurers to hold higher reserves for specific types of term policies.

Part 1409 does not apply to group life insurance certificates unless the certificates provide for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

- 6) Will this proposed rule replace emergency rules currently in effect? No.

- 7) Does this rule contain an automatic repeal date? No.

- 8) Does this proposed rule contain incorporations by reference? Yes. The incorporation by reference can be found in the first definition found in Section 1409.30 of this Part.

- 9) Are there any other proposed amendments pending on this Part? No.

- 10) Statement of Statewide Policy Objectives: This rule will not necessitate that the Department establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

David Van Lieshout Assistant Chief Counsel Department of Insurance 320 West Washington Springfield, IL 62767 (217) 782-2867	Mary Meyer Paralegal Department of Insurance 320 West Washington Springfield, IL 62767 (217) 785-8220
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- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rule will not impact small businesses.

- 13) Regulatory Agenda on which this proposed rule was summarized: January 1995

The full text of the Proposed Rule begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER S: LEGAL RESERVE LIFE

PART 1409

VALUATION OF LIFE INSURANCE POLICIES
(INCLUDING THE INTRODUCTION AND USE OF NEW SELECT MORTALITY
FACTORS)

Section	Purpose
1409.10	Applicability
1409.20	Definitions
1409.30	General Calculation Requirements for Basic Reserves and Deficiency Reserves
1409.40	Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Premiums or Guaranteed Nonlevel Benefits (Other Than Universal Life Policies)
1409.50	Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period of More Than Five Years
1409.60	Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period of More Than Five Years
APPENDIX A	Base Select Mortality Factors
ILLUSTRATION A	Male Aggregate - Base Valuation Selection Factors*
ILLUSTRATION B	Male Nonsmoker - Base Valuation Selection Factors*
ILLUSTRATION C	Male Smoker - Base Valuation Selection Factors*
ILLUSTRATION D	Female Aggregate - Base Valuation Selection Factors*
ILLUSTRATION E	Female Nonsmoker - Base Valuation Selection Factors*
ILLUSTRATION F	Female Smoker - Base Valuation Selection Factors*

AUTHORITY: Implementing Section 223 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 1409.10 Purpose

- a) The purpose of this Part is to provide:
- 1) Tables of select mortality factors and procedures for their use;
 - 2) Minimum standards for the valuation of plans with nonlevel premiums or benefits;
 - 3) Minimum standards for the valuation of plans with secondary guarantees.
- b) The method for calculating basic reserves defined in this Part will constitute the Commissioner's Reserve Valuation Method for policies to which this Part is applicable.

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Section 1409.20 Applicability

This Part shall apply to all life insurance policies, with or without nonforfeiture values issued on or after the effective date of this Part, subject to the following exceptions and conditions:

a) Exceptions.

- 1) This Part shall not apply to any individual life insurance policy issued on or after the effective date of this Part if the policy is issued in accordance with, and as a result of the exercise of, a reentry provision contained in the original life insurance policy or any individual life insurance policy of the same or greater face amount, issued before the effective date of this Part, that guarantees the premium rates of the new policy. This Part also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision in the new policy.
 - 2) This Part shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.
 - 3) This Part shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.
 - 4) This Part shall not apply to group life insurance certificates unless the certificates provide for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.
- b) Conditions.
- 1) Calculation of the minimum valuation standard for policies with guaranteed nonlevel premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of Section 1409.50 of this Part.
 - 2) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period of more than five (5) years, shall be in accordance with the provisions of Section 1409.60 of this Part.

Section 1409.30 Definitions

1980 CSO Valuation Tables means the Commissioner's 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten-year selection factors, incorporated into the 1980 amendments to the National Association of Insurance Commissioners (hereinafter NAIC) Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December,

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1983, as published in the 1984 Proceedings for the NAIC, Vol. 1, p. 31. No later amendments or editions shall be included.

Basic Reserves mean reserves calculated in accordance with Section 223(3)(b) of the Illinois Insurance Code [215 ILCS 5/223(3)(b)].

Contract Segmentation Method means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined in the procedure set forth below in this definition. All calculations are made using the 1980 CSO valuation tables, and if elected, the optional minimum mortality standard for deficiency reserves found in Section 1409.40(b) of this Part.

The length of a particular contract segment shall be set equal to the minimum of the value t for which $G[t]$ is greater than $R[t]$ (if $G[t]$ never exceeds $R[t]$ the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where $G[t]$ and $R[t]$ are defined as follows:

$$G[t] = \frac{(GP)[x + k + t]}{(GP)[x + k + t - 1]}$$

$$R[t] = \frac{(q)[x + k + t]}{(q)[x + k + t - 1]}$$

However, $R[t]$ may be increased or decreased by one percent in any policy year, at the company's option, but $R[t]$ shall not be less than one;

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

t = 1, 2, ..., t is reset to 1 at the beginning of each segment;

$GP[x + k + t - 1]$ = Guaranteed gross premium per thousand of face amount, ignoring policy fees only if level for the premium paying

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period of the policy, for year t of the segment.

$$q[x + k + t - 1] = \text{Valuation mortality rate for deficiency reserves in policy year } k + t.$$

Deficiency Reserves mean the excess, if greater than zero, of:

Minimum reserves calculated in accordance with Section 223(3)(f) of the Illinois Insurance Code [215 ILCS 5/223(3)(f)], and

Basic reserves.

Maximum Valuation Interest Rates mean the interest rates defined in Section 223(6)(b) of the Illinois Insurance Code [215 ILCS 5/223(6)(b)] that are to be used in determining the minimum standard for the valuation of life insurance policies.

Scheduled Gross Premium means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in Section 1409.60(a)(3) of this Part, if any, or else the minimum premium described in Section 1409.60(a)(4) of this Part.

Segmented Reserves mean reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

The present value of the death benefits within the segment, plus

The present value of any unusual guaranteed cash value (Section 1409.50(d) of this Part) occurring at the end of the segment, less

Any unusual guaranteed cash value occurring at the start of the segment, plus

For the first segment only, the excess of the net level annual premium (which is equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date

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of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due) over the net one year term premium for the benefits provided for in the first policy year. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

The length of each segment is determined by the Contract Segmentation Method.

The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.

For both basic reserves and deficiency reserves computed by the segmented method, present values must include future benefits and net premiums in the current segment and in all subsequent segments.

Tabular Cost of Insurance means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

Ten-year Select Factors mean the select factors adopted in the 1980 amendments to the NAIC Standard Valuation Law.

Unitary Reserves mean the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and

Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of the net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due, over the net one year term premium for the benefits provided for in the first policy year. However, the net level annual premium shall not exceed the net level annual premium on

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the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

Universal Life Insurance Policy means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

Section 1409.40 General Calculation Requirements for Basic Reserves and Deficiency Reserves

a) Basic Reserves.

1) At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors.

2) If select mortality factors are elected, they may be:

- A) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; or
- B) One hundred fifty percent (150%) of the base select mortality factors found in Appendix A of this Part; or
- C) One hundred fifty percent (150%) of the base select mortality factors found in Appendix A of this Part for the first ten (10) policy years; then linearly graded from the resulting tenth year factor to one hundred percent (100%) at policy year sixteen (16).

b) Deficiency Reserves.

1) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors. If select mortality factors are elected, they may be:

- A) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; or
- B) One hundred twenty percent (120%) of the base select

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mortality factors found in Appendix A of this Part; or

C) One hundred twenty percent (120%) of the base select mortality factors found in Appendix A of this Part for the first ten (10) policy years; then linearly graded from the resulting tenth year factor to one hundred percent (100%) at policy year sixteen (16).

2) Notwithstanding the above, if the length of the first segment as determined by the contract segmentation method for the basic reserves is not greater than five (5) years (safe harbor), then for that length of time measured from issue, for either the unitary method or the contract segmentation method, gross premiums need not be substituted for net premiums even if the gross premiums are less than the net premiums. For subsequent periods, gross premiums must be substituted for net premiums if the gross premiums are less than the corresponding net premiums.

3) For any policies for which the company chooses to use the "safe harbor", the company must submit on an annual basis to the Director a statement of actuarial opinion, signed by the appointed actuary certifying that the reserves held for all such policies are adequate.

c) In applying percentages to the base select mortality factors:

- 1) Do not round any result; and
 - 2) Set equal to 100 any result that exceeds 100.
- d) This subsection applies to both basic reserves and deficiency reserves. Any set of base select mortality factors may be used only for the first segment. However, if the first segment is less than ten (10) years, the appropriate ten-year select mortality factors may be used thereafter through the tenth policy year from the date of issue.
- e) In determining basic reserves or deficiency reserves, gross premiums without policy fees may be used where the calculation involves the gross premium but only if the policy fee is a level dollar amount for the entire premium-paying period of the policy. In determining deficiency reserves, policy fees may be included in gross premiums even if not included in the actual calculation of basic reserves.

Section 1409.50 Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Premiums or Guaranteed Nonlevel Benefits (Other Than Universal Life Policies)

a) Basic Reserves.

Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy must use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described in subsection (a)(1) or (2) below may be made:

- 1) Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the

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unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

- 2) Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

b) Deficiency Reserves.

- 1) This subsection (b) shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in Section 1409.40(b) of this Part) and rate of interest.

2) The deficiency reserve at any duration shall be calculated:

- A) On a unitary basis if the corresponding basic reserve determined by subsection (a) above is unitary;
- B) On a segmented basis if the corresponding basic reserve determined by subsection (a) above is segmented; or
- C) On the segmented basis if the corresponding basic reserve determined by subsection (a) above is equal to both the segmented reserve and the unitary reserve.

3) Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in Section 1409.40(b) of this Part.

4) For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

c) Minimum Value.

Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance must use the same valuation mortality table, select mortality factor and interest rates as that used for the calculation of both the segmented and the unitary reserves. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

d) Unusual Pattern of Guaranteed Cash Surrender Values.

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1) For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

2) The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where:

A) n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

i) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

ii) The mandatory expiration date of the policy; and

B) The net premium for a given year during the n year period is equal to the product of the net to gross ratio and the respective gross premium; and

C) The net to gross ratio is equal to (i) divided by (ii) as follows:

i) The present value, at the beginning of the n year period, of death benefits payable during the n year period plus the present value, at the beginning of the n year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n year period.

ii) The present value, at the beginning of the n year period, of the scheduled gross premiums payable during the n year period.

3) For purposes of this subsection (d), a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

A) One hundred ten percent (110%) of the scheduled gross premium for that year;

B) One hundred ten percent (110%) of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy

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guaranteed cash surrender values; and

C) Five percent (5%) of the first policy year surrender charge, if any.

e) Optional Exemption for Yearly Renewable Term (YRT) Reinsurance.

At the option of the company, the following approach for reserves on YRT reinsurance may be used.

1) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection (c) of this Section.

3) Deficiency Reserves

A) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

B) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subsection (e)(1)(A) of this Section.

4) For purposes of this subsection (e), the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten-year select mortality factors.

5) A reinsurance agreement shall be considered YRT reinsurance for purposes of this subsection (e) if:

A) The reinsurance premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) for any given year are independent of both the premium rates and the plan of the original policy; and

B) Only the mortality risk is reinsured.

f) Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies.

At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used.

1) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection (c).

3) Deficiency Reserves.

A) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

B) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subsection (e)(2)(A) above.

4) For purposes of this subsection (f), the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors.

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5) A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subsection (f) if:

- A) The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and
- B) The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age.

6) For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subsection (f) may be used after the initial period if:

- A) The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or
- B) The initial period runs to a common attained age for all insureds of the same sex, risk class and plan of insurance; and

C) After the initial period of coverage, the policy meets the conditions of subsection (e) above.

7) If this election is made, this approach must be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this Part.

g) Exemption from Unitary Reserves for Certain *n*-Year Renewable Term Life Insurance Policies.

Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

- 1) The policy consists of a series of *n*-year periods, including the first period and all renewal periods, where *n* is the same for each period, and for each *n*-year period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

2) The guaranteed gross premiums in all *n*-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the ten-year select mortality factors; and

3) There are no cash surrender values in any policy year.

h) Exemption from Unitary Reserves for Certain Juvenile Policies.

Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

- 1) At issue, the insured is age twenty-four (24) or younger;
- 2) Until the insured reaches the end of the juvenile period, which must occur at or before age twenty-five (25), the gross premiums and death benefits are level, and there are no cash surrender values; and

3) After the end of the juvenile period, gross premiums are level

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for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

Section 1409.60 Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period of More Than Five Years

a) General.

1) Policies with a secondary guarantee include:

A) A policy with a guarantee that the policy will remain in force at the original schedule of benefits over a period exceeding five (5) years, subject only to the payment of specified premiums;

B) A policy in which the minimum premium at any future duration beyond the end of the fifth policy year is less than the corresponding one year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors; or

C) A policy with any combination of (A) and (B) above.

2) A secondary guarantee period is the longest period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. Secondary guarantees that are unilaterally extended by the insurer after issue shall be considered to have been made at issue. Reserves described in subsections (b) and (c) below must be recalculated from issue to reflect the extensions.

3) Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

4) For purposes of this Section, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation must use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue.

5) The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in Sections 1409.40(a)(1)(B) and (C) and 1409.40(b)(1)(B) and (C) may not be used to calculate the one-year valuation premiums.

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- b) Basic Reserves for the Secondary Guarantees.
Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in Section 1409.30 of this Part.
- c) Deficiency Reserves for the Secondary Guarantees.
Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in Section 1409.50(b) of this Part with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.
- d) Minimum Reserves.
The minimum reserves during the secondary guarantee period are the basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees.

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Section 1409. APPENDIX A Base Select Mortality Factors

This Appendix contains tables of select mortality factors that are the bases upon which the respective percentage of Sections 1409.40(a)(1)(B) and (C) and 1409.40(b)(1)(B) and (C) and 1409.40(b)(1)(B) and (C) applied.

- a) The six tables of base select mortality factors contained herein include:
- 1) male aggregate,
 - 2) male nonsmoker,
 - 3) male smoker,
 - 4) female aggregate,
 - 5) female nonsmoker,
 - 6) female smoker.
- b) These tables apply to both age, last birthday and age nearest birthday mortality tables.
- c) For sex-blended mortality tables, compute base select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated base select mortality factors are eighty percent (80%) of the appropriate male table in this Appendix, plus twenty percent (20%) of the appropriate female table in this Appendix.

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SECTION 1409.APPENDIX A ILLUSTRATION A

MALE AGGREGATE — BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
0	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
2	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
3	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
4	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
7	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
10	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
11	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
12	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
13	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
14	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
15	91	91	91	92	92	92	92	92	92	92	92	92	92	92	92	100
16	82	82	82	83	83	83	83	83	84	84	84	84	84	84	84	100
17	73	74	74	75	75	75	75	75	76	76	76	76	76	76	76	100
18	64	65	65	66	66	67	67	68	67	67	67	67	67	67	67	100
19	55	56	56	58	58	58	58	58	58	58	59	59	59	59	59	100
20	46	47	47	49	49	50	50	49	50	51	51	51	51	51	53	100
21	44	45	46	47	48	48	49	48	49	50	50	50	50	51	52	100
22	43	44	44	46	46	47	47	47	47	49	49	49	49	50	52	100
23	41	42	43	44	45	45	46	45	46	47	47	48	49	50	51	100
24	40	41	41	43	43	44	44	44	44	46	46	47	48	49	51	100
25	38	39	40	41	42	42	43	43	43	45	45	46	47	48	51	100
26	37	38	40	41	42	42	43	44	44	45	46	47	48	49	50	100
27	37	38	40	41	42	43	44	44	44	46	46	47	48	50	51	100
28	36	37	40	42	43	43	44	45	45	46	47	48	50	51	53	100
29	36	37	40	42	43	44	45	45	45	47	47	48	51	52	54	100
30	35	36	40	42	43	44	45	46	46	47	48	49	52	53	55	100
31	34	36	40	42	44	45	46	47	47	48	49	51	53	54	56	100
32	33	35	40	43	44	45	46	48	48	49	51	52	54	56	57	100
33	31	35	41	43	45	46	47	48	50	51	52	54	56	57	59	100
34	30	34	41	43	45	46	47	49	51	52	54	55	57	59	60	100
35	29	34	41	44	46	47	48	50	52	53	55	57	58	60	61	100
36	28	33	41	44	46	47	49	50	52	53	55	57	59	61	62	100
37	28	33	41	44	47	48	49	50	52	53	55	57	59	61	62	100
38	27	32	41	45	47	48	50	51	52	54	55	58	60	62	63	100
39	27	32	41	45	48	49	50	51	52	54	55	58	60	62	63	100
40	26	31	41	45	48	49	51	51	52	54	55	58	61	63	64	100
41	26	32	41	45	48	49	51	51	53	55	57	57	61	63	64	100
42	26	33	41	45	48	49	50	50	51	52	54	57	60	63	64	100
43	26	33	42	46	47	48	50	50	52	54	56	60	62	64	64	100
44	26	34	42	46	47	48	49	49	50	51	53	56	60	62	64	100

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SECTION 1409.APPENDIX A ILLUSTRATION A

MALE AGGREGATE — BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
90	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
91	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
92	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
93	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
94	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
95	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
96	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
97	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
98	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
99	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Factors are a percent of the 1980 CSO Male Mortality (without 10 year select) rate of mortality for the attained age. Factors are based on the 1980 CSO Male Mortality Table and 100% of the 83-86 SOA intercompany experience.

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SECTION 1409.APPENDIX A ILLUSTRATION B

MALE NONSMOKER — BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
0	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
2	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
3	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
4	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
7	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
10	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
11	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
12	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
13	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
14	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
15	91	91	91	91	92	92	92	92	92	92	92	92	92	92	92	100
16	81	82	82	83	83	83	83	83	83	84	84	84	84	84	85	100
17	72	73	73	74	75	75	75	75	75	76	76	76	76	76	77	100
18	62	63	64	65	66	67	67	67	67	67	67	67	67	68	69	100
19	53	54	55	57	58	58	58	58	58	59	59	59	59	60	62	100
20	43	45	46	48	49	50	50	49	50	51	51	51	52	52	54	100
21	42	44	45	47	48	49	48	47	47	48	49	49	49	50	51	100
22	41	43	44	45	46	47	47	47	47	48	49	49	49	50	51	100
23	40	41	42	44	45	46	45	45	46	47	48	48	48	49	50	100
24	39	40	41	42	43	44	44	44	45	46	47	48	48	49	50	100
25	38	39	40	41	42	42	43	43	44	46	47	47	47	48	49	100
26	37	38	40	41	42	43	44	44	44	46	47	47	47	48	49	100
27	37	38	40	42	43	43	44	44	45	46	47	48	48	49	51	100
28	36	38	41	42	43	44	45	45	45	46	47	48	48	49	51	100
29	36	37	41	43	44	44	45	45	46	47	48	49	49	50	52	100
30	35	37	41	43	44	45	46	46	46	47	48	49	49	51	53	100
31	34	36	41	43	44	45	46	47	47	48	49	50	50	52	54	100
32	33	36	41	44	45	46	47	47	48	49	50	51	51	53	55	100
33	32	35	41	44	45	46	47	48	49	50	51	52	52	54	56	100
34	31	35	41	45	46	47	48	48	50	51	52	54	56	58	59	100
35	30	34	41	45	46	47	48	49	51	52	53	55	57	59	60	100
36	29	34	41	45	46	47	48	49	51	52	53	55	57	59	60	100
37	28	33	41	45	46	47	48	49	51	52	53	55	57	59	60	100
38	28	33	41	45	47	48	49	50	51	52	53	55	57	59	60	100
39	27	32	41	45	47	48	49	50	51	53	54	56	58	60	60	100
40	26	32	41	45	47	48	49	50	51	53	54	56	58	60	60	100
41	26	32	41	45	47	48	49	50	51	53	54	56	58	60	60	100
42	26	32	41	45	47	48	49	50	51	52	54	56	58	60	60	100
43	25	33	41	45	47	48	49	48	49	51	52	54	56	58	60	100
44	25	34	41	45	47	48	48	48	48	48	50	52	54	56	58	100

*Factors are a percent of the 1980 CSO Male Nonsmoker Mortality (without 10 year select) rate of mortality for the attained age. Factors are based on the 1980 CSO Male Nonsmoker Mortality Table and 100% of the 83-86 SOA intercompany experience.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

SECTION 1409.APPENDIX A ILLUSTRATION B

MALE NONSMOKER - BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
45	25	34	41	45	47	48	48	47	47	47	49	51	53	55	57	100
46	25	33	40	43	45	46	46	46	46	47	49	51	53	54	56	100
47	24	32	38	42	44	45	45	45	45	46	48	51	52	53	55	100
48	24	32	37	40	42	43	44	44	45	46	48	51	52	53	55	100
49	23	31	35	39	41	42	42	43	44	45	48	51	51	52	52	100
50	23	30	34	37	39	40	41	42	43	45	48	51	51	51	51	100
51	22	29	33	36	38	39	40	41	42	43	44	48	50	51	51	100
52	22	28	32	35	37	38	40	41	42	44	47	50	50	51	51	100
53	21	26	31	34	37	38	39	41	42	43	47	49	50	50	51	100
54	21	25	30	33	36	37	39	40	41	43	46	49	49	50	51	100
55	20	24	29	32	35	36	38	40	41	42	46	48	49	50	51	100
56	19	24	29	32	35	36	37	39	40	41	45	47	48	49	50	100
57	19	23	29	32	35	36	38	39	40	41	44	46	47	48	49	100
58	18	23	28	31	34	36	37	39	40	42	44	46	47	48	49	100
59	18	22	28	31	34	36	37	39	40	42	44	46	47	48	49	100
60	17	22	28	31	34	36	37	39	40	42	44	46	47	48	49	100
61	17	22	28	31	34	36	37	39	40	42	44	46	47	48	49	100
62	16	21	27	31	33	35	36	38	39	41	43	45	46	47	48	100
63	16	21	27	30	33	35	36	38	39	41	43	45	46	47	48	100
64	15	20	26	30	32	34	36	38	40	42	44	46	47	48	49	100
65	15	20	26	30	32	34	36	38	40	42	44	46	47	48	49	100
66	15	20	26	30	32	34	36	38	40	42	44	46	47	48	49	100
67	15	20	26	30	32	34	36	38	40	42	44	46	47	48	49	100
68	15	20	25	29	32	34	36	38	40	42	44	46	47	48	49	100
69	15	20	25	29	32	34	36	38	40	42	44	46	47	48	49	100
70	15	20	25	29	32	34	36	38	40	42	44	46	47	48	49	100
71	21	25	30	34	37	39	41	43	45	47	49	51	52	53	54	100
72	26	31	35	38	41	43	45	47	49	51	53	55	56	57	58	100
73	32	36	40	43	46	48	50	52	54	56	58	60	62	64	66	100
74	38	41	45	48	50	52	54	56	58	60	62	64	66	68	70	100
75	43	47	50	53	55	57	59	61	63	65	67	69	71	73	75	100
76	49	52	55	57	59	61	63	65	67	69	71	73	75	77	79	100
77	55	57	60	62	64	66	68	70	72	74	76	78	80	82	84	100
78	60	63	65	67	69	71	73	75	77	79	81	83	85	87	89	100
79	66	68	70	72	74	76	78	80	82	84	86	88	90	92	94	100
80	72	73	75	76	77	78	79	80	81	82	83	84	85	86	87	100
81	77	79	80	81	82	83	84	85	86	87	88	89	90	91	92	100
82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	100
83	89	89	90	91	92	93	94	95	96	97	98	99	100	100	100	100
84	94	95	95	95	95	95	95	95	95	95	95	95	95	95	95	100
85	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
86	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
87	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
88	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
89	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Factors are a percent of the 1980 CSO Male Nonsmoker Mortality (without 10 year select) rate of mortality for the attained age
Factors are based on the 1980 CSO Male Nonsmoker Mortality Table and 100% of the 83-86 SOA intercompany experience

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

SECTION 1409.APPENDIX A ILLUSTRATION B

MALE NONSMOKER - BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
90	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
91	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
92	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
93	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
94	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
95	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
96	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
97	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
98	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
99	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Factors are a percent of the 1980 CSO Male Nonsmoker Mortality (without 10 year select) rate of mortality for the attained age
Factors are based on the 1980 CSO Male Nonsmoker Mortality Table and 100% of the 83-86 SOA intercompany experience

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

SECTION 1409.APPENDIX A ILLUSTRATION C

MALE SMOKER – BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															15	16+
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15		
0	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
2	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
3	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
4	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
7	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
10	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
11	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
12	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
13	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
14	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
15	94	95	95	95	95	96	96	95	95	95	95	95	95	95	95	95	100
16	88	89	89	90	90	91	91	91	91	91	91	90	90	90	90	91	100
17	83	84	84	85	86	87	87	86	86	86	86	86	86	86	86	86	100
18	77	78	79	80	81	82	82	81	81	81	81	81	81	81	81	81	100
19	71	73	73	75	76	78	78	77	77	77	77	76	76	76	76	77	100
20	65	67	68	70	71	73	73	72	72	72	72	71	71	71	72	72	100
21	63	65	66	68	69	70	70	69	70	70	69	69	69	69	69	70	100
22	61	63	64	66	66	68	68	67	68	68	67	67	67	67	68	68	100
23	60	61	62	64	64	65	65	64	65	65	65	65	65	65	66	66	100
24	58	59	60	62	61	63	63	62	62	63	63	63	63	64	65	65	100
25	56	57	58	60	59	60	60	59	60	61	61	61	61	62	63	63	100
26	55	56	57	59	58	59	59	58	59	60	60	60	60	61	62	62	100
27	53	55	57	59	58	59	60	59	60	60	60	60	60	61	62	63	100
28	52	53	54	56	55	56	56	55	56	57	57	57	57	58	59	59	100
29	50	52	54	56	55	56	56	55	56	57	57	57	57	58	59	60	100
30	49	51	53	55	54	55	55	54	55	56	56	56	56	57	58	59	100
31	47	50	52	54	53	54	54	53	54	55	55	55	55	56	57	58	100
32	45	48	50	52	51	52	52	51	52	53	53	53	53	54	55	56	100
33	43	47	49	51	50	51	51	50	51	52	52	52	52	53	54	55	100
34	41	45	47	49	48	49	49	48	49	50	50	50	50	51	52	53	100
35	39	44	46	48	47	48	48	47	48	49	49	49	49	50	51	52	100
36	38	43	45	47	46	47	47	46	47	48	48	48	48	49	50	51	100
37	36	42	44	46	45	46	46	45	46	47	47	47	47	48	49	50	100
38	35	40	42	44	43	44	44	43	44	45	45	45	45	46	47	48	100
39	33	39	41	43	42	43	43	42	43	44	44	44	44	45	46	47	100
40	32	38	40	42	41	42	42	41	42	43	43	43	43	44	45	46	100
41	31	38	40	42	41	42	42	41	42	43	43	43	43	44	45	46	100
42	31	38	40	42	41	42	42	41	42	43	43	43	43	44	45	46	100
43	30	37	39	41	40	41	41	40	41	42	42	42	42	43	44	45	100
44	30	37	39	41	40	41	41	40	41	42	42	42	42	43	44	45	100

*Factors are a percent of the 1980 CSO Male Smoker Mortality (without 10 year select) rate of mortality for the attained age
Factors are based on the 1980 CSO Male Smoker Mortality Table and 100% of the 83-86 SOA intercompany experience

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

SECTION 1409.APPENDIX A ILLUSTRATION C

MALE SMOKER – BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															15	16+
	1	2	3	4	5	6	7	8	9	10	11	12	13	14			
45	29	39	47	52	54	55	55	55	55	56	58	61	65	68	71	100	
46	29	38	46	50	52	54	54	54	55	56	59	62	65	68	70	100	
47	28	37	44	49	51	52	53	53	54	56	59	63	66	68	70	100	
48	28	37	43	47	49	51	52	53	54	56	60	63	66	68	69	100	
49	27	36	41	46	48	49	51	52	53	56	60	64	67	68	69	100	
50	27	35	40	44	46	48	50	51	53	56	61	65	67	68	68	100	
51	26	34	39	43	46	48	50	51	53	56	61	65	67	69	69	100	
52	26	33	38	42	45	47	50	51	53	56	61	65	68	69	70	100	
53	25	31	37	41	45	47	49	51	54	56	62	66	68	70	72	100	
54	25	30	36	40	44	46	49	51	54	56	62	66	69	70	73	100	
55	24	29	35	39	44	46	49	51	54	56	62	66	69	71	74	100	
56	23	29	35	39	44	46	48	50	53	56	61	65	68	70	74	100	
57	23	29	35	39	44	45	48	50	53	55	61	64	67	69	73	100	
58	22	28	36	40	45	45	47	49	52	55	60	64	67	69	73	100	
59	22	28	36	40	45	44	47	49	52	54	60	63	66	68	72	100	
60	21	28	36	40	45	44	46	48	51	54	59	62	65	67	72	100	
61	21	28	36	41	45	45	47	49	52	54	59	61	64	67	71	100	
62	21	28	36	41	46	46	48	50	52	54	59	60	63	66	70	100	
63	20	28	37	42	46	46	49	50	53	55	58	60	63	66	69	100	
64	20	28	37	42	47	47	50	51	53	55	58	59	62	65	68	100	
65	20	28	37	43	47	48	51	52	54	55	58	58	61	65	67	100	
66	20	29	37	44	48	49	52	53	54	55	58	58	61	65	67	100	
67	21	29	37	44	49	50	52	53	55	55	58	58	61	65	67	100	
68	21	30	38	45	49	50	53	54	55	56	57	58	61	65	66	100	
69	22	30	38	45	50	51	53	54	56	56	57	58	61	65	66	100	
70	22	31	38	46	51	52	54	55	56	56	57	58	61	65	66	100	
71	27	36	42	50	54	55	57	58	59	59	60	61	64	67	68	100	
72	32	40	46	53	58	58	60	61	62	62	63	64	66	70	71	100	
73	38	45	50	57	61	62	63	64	65	65	66	66	69	72	73	100	
74	43	49	55	60	64	65	66	67	68	68	68	69	71	74	75	100	
75	48	54	59	64	67	68	69	70	71	71	71	72	74	77	77	100	
76	53	59	63	68	71	71	72	73	74	74	74	75	77	79	80	100	
77	58	63	67	71	74	74	75	76	77	77	77	78	79	81	82	100	
78	64	68	71	75	77	78	79	79	79	79	80	80	82	84	84	100	
79	69	72	75	78	80	81	82	82	82	82	83	83	84	86	86	100	
80	74	77	79	82	84	84	85	85	85	85	86	86	87	88	89	100	
81	79	82	83	86	87	87	88	88	88	88	89	89	90	91	91	100	
82	84	86	88	89	90	90	91	91	91	91	91	91	92	92	93	100	
83	90	91	92	93	93	94	94	94	94	94	94	94	95	95	95	100	
84	95	95	96	96	97	97	97	97	97	97	97	97	97	98	98	100	
85	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
86	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
87	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
88	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
89	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

SECTION 1409.APPENDIX A ILLUSTRATION C

MALE SMOKER - BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
90	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
91	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
92	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
93	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
94	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
95	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
96	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
97	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
98	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
99	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Factors are a percent of the 1980 CSO Male Smoker Mortality (without 10 year select) rate of mortality for the attained age.
Factors are based on the 1980 CSO Male Smoker Mortality Table and 100% of the 83-86 SOA intercompany experience

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

SECTION 1409.APPENDIX A ILLUSTRATION D

MALE AGGREGATE - BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
0	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
2	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
3	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
4	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
7	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
10	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
11	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
12	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
13	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
14	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
15	89	89	89	89	89	89	89	89	89	90	90	90	90	91	91	100
16	77	78	78	78	78	78	78	78	79	80	80	80	81	81	82	100
17	66	67	67	67	67	68	68	68	69	70	71	71	71	72	73	100
18	55	55	56	56	56	56	57	57	58	59	60	61	61	63	63	100
19	43	44	45	45	45	45	46	46	47	48	50	51	52	53	54	100
20	32	33	34	34	34	34	35	35	36	37	40	41	42	44	45	100
21	31	32	33	34	34	34	35	35	36	38	41	43	44	46	47	100
22	29	31	32	33	34	34	35	36	37	39	43	44	45	47	48	100
23	28	30	32	33	34	34	35	36	37	39	44	46	47	49	50	100
24	26	29	31	32	34	34	36	37	39	40	46	47	48	50	51	100
25	25	28	30	32	34	34	36	38	40	41	47	49	50	52	53	100
26	25	28	30	33	35	35	37	40	42	43	48	50	51	53	54	100
27	25	28	30	34	36	37	39	41	43	44	50	51	53	54	55	100
28	25	27	31	34	38	38	40	43	45	46	51	53	54	56	57	100
29	25	27	31	35	39	40	42	44	46	47	53	54	56	57	58	100
30	25	27	31	36	40	41	43	46	48	49	54	55	57	58	59	100
31	25	27	31	37	41	42	44	47	49	50	56	56	57	58	59	100
32	25	28	32	37	41	43	46	48	50	51	56	56	57	58	59	100
33	26	28	32	38	42	45	47	50	51	52	56	57	58	59	60	100
34	26	29	33	38	42	46	49	51	52	53	57	57	59	60	61	100
35	26	29	33	39	43	47	50	52	53	54	58	58	59	60	61	100
36	26	29	33	39	43	48	50	52	53	54	58	58	59	60	61	100
37	26	30	34	40	44	48	50	52	53	54	57	57	58	60	60	100
38	25	30	34	40	44	49	51	53	54	55	57	57	58	60	61	100
39	25	31	35	41	45	49	51	53	54	55	56	56	57	60	61	100
40	25	31	35	41	45	50	51	53	54	55	56	56	57	60	61	100
41	25	31	35	41	44	49	50	53	54	55	56	56	57	61	62	100
42	25	31	35	40	44	48	50	52	53	54	56	56	57	62	63	100
43	24	30	35	40	43	47	49	52	53	54	56	56	57	64	65	100
44	24	30	35	39	43	46	49	51	52	54	56	56	57	65	66	100

*Factors are a percent of the 1980 CSO Female Mortality (without 10 year select) rate of mortality for the attained age
Factors are based on the 1980 CSO Female Mortality Table and 100% of the 83-86 SOA intercompany experience

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SECTION 1409.APPENDIX A ILLUSTRATION D

SECTION 1409.APPENDIX A ILLUSTRATION D

FEMALE AGGREGATE - BASE VALUATION SELECTION FACTORS*

FEMALE AGGREGATE - BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION																16+
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15		
45	24	30	35	39	42	45	48	51	52	54	56	57	59	64	66	100	
46	23	29	34	38	41	44	48	51	52	54	56	58	59	64	65	100	
47	22	28	33	37	40	44	47	51	52	55	57	58	59	64	64	100	
48	22	28	33	36	40	43	47	51	53	55	57	59	60	63	63	100	
49	21	27	32	35	39	43	46	51	53	56	58	59	60	63	63	100	
50	20	26	31	34	38	42	46	51	53	56	58	60	60	63	62	100	
51	20	26	31	34	38	42	46	51	53	55	57	58	59	62	61	100	
52	19	25	30	34	38	43	47	51	52	54	55	57	60	60	100	100	
53	19	25	30	34	39	43	47	51	52	53	54	55	56	59	59	100	
54	18	24	29	34	39	44	48	51	52	52	52	54	57	58	100	100	
55	18	24	29	34	39	44	48	51	51	51	51	52	53	56	57	100	
56	18	24	29	34	38	43	47	49	50	50	51	52	53	55	55	100	
57	18	24	29	34	38	42	45	47	48	49	50	51	52	55	55	100	
58	18	25	30	34	37	41	44	46	47	50	51	52	54	55	55	100	
59	18	25	30	34	37	40	42	44	45	46	49	50	51	54	54	100	
60	18	25	30	34	36	39	41	42	44	45	49	50	51	53	53	100	
61	18	24	29	33	35	38	40	41	43	44	48	49	50	52	52	100	
62	17	23	28	32	34	37	39	40	42	43	47	48	49	51	51	100	
63	17	23	27	31	34	36	38	40	41	42	46	46	47	50	50	100	
64	16	22	26	30	33	35	37	39	40	41	45	45	46	49	49	100	
65	16	21	25	29	32	34	36	38	39	40	44	44	45	48	48	100	
66	16	21	25	29	31	33	35	37	39	40	44	44	45	48	48	100	
67	16	21	25	28	31	33	35	37	38	40	44	44	45	48	47	100	
68	16	21	24	28	30	32	34	36	38	40	44	45	45	47	47	100	
69	16	21	24	27	30	32	34	36	37	40	44	45	45	47	46	100	
70	16	21	24	27	29	31	33	35	37	40	44	45	45	47	46	100	
71	22	26	29	32	34	36	37	39	41	44	48	49	49	51	50	100	
72	27	32	34	37	38	40	42	44	45	48	51	52	52	54	53	100	
73	33	37	39	42	43	45	46	48	50	52	55	56	56	58	57	100	
74	38	42	44	46	48	49	51	52	54	56	59	60	60	61	60	100	
75	44	47	49	51	53	54	55	57	58	60	63	63	63	65	64	100	
76	50	53	54	56	57	59	60	61	62	64	66	67	67	68	68	100	
77	55	58	59	61	62	63	64	65	66	68	70	71	71	72	71	100	
78	61	63	65	66	67	68	69	70	71	72	74	74	74	75	75	100	
79	66	68	70	71	72	72	73	74	75	76	78	78	78	79	78	100	
80	72	74	75	76	76	77	78	78	79	80	81	82	82	82	82	100	
81	78	79	80	81	81	82	82	83	83	84	85	85	85	86	86	100	
82	83	84	85	85	86	86	87	87	88	89	89	89	89	89	89	100	
83	89	89	90	90	91	91	91	91	91	92	92	93	93	93	93	100	
84	94	95	95	95	95	95	96	96	96	96	96	96	96	96	96	100	
85	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
86	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
87	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
88	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
89	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	

*Factors are a percent of the 1980 CSO Female Mortality (without 10 year select) rate of mortality for the attained age

Factors are based on the 1980 CSO Female Mortality Table and 100% of the 83-86 SOA intercompany experience

*Factors are a percent of the 1980 CSO Female Mortality (without 10 year select) rate of mortality for the attained age
Factors are based on the 1980 CSO Female Mortality Table and 100% of the 83-86 SOA intercompany experience

*Factors are a percent of the 1980 CSO Female Mortality (without 10 year select) rate of mortality for the attained age
Factors are based on the 1980 CSO Female Mortality Table and 100% of the 83-86 SOA intercompany experience

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SECTION 1409.APPENDIX A ILLUSTRATION E

FEMALE NONSMOKER — BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
0	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
2	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
3	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
4	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
7	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
10	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
11	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
12	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
13	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
14	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
15	88	88	88	88	88	89	89	89	89	89	89	90	90	90	90	100
16	76	76	77	77	77	77	77	77	78	78	79	79	79	80	81	100
17	64	65	65	65	65	66	66	66	67	67	68	69	69	70	71	100
18	52	53	53	53	53	54	54	55	55	55	57	58	59	60	61	100
19	40	41	42	42	42	43	43	43	44	44	47	48	48	50	52	100
20	28	29	30	30	30	31	31	31	32	33	36	37	38	40	42	100
21	27	28	29	30	31	32	32	32	33	34	37	38	39	41	43	100
22	26	27	28	30	31	32	33	33	35	36	39	40	41	42	44	100
23	25	27	28	29	30	31	32	33	35	36	40	41	42	44	45	100
24	24	26	28	29	30	31	33	34	36	37	42	43	44	45	46	100
25	23	25	27	29	30	31	33	35	37	38	43	44	45	46	47	100
26	23	25	28	30	31	32	34	36	38	39	44	45	46	47	48	100
27	23	25	28	31	33	34	35	37	39	40	45	46	47	48	49	100
28	22	25	28	31	34	35	37	39	41	42	46	47	48	49	50	100
29	22	25	29	32	36	37	38	40	42	43	47	47	48	49	50	100
30	22	25	29	33	37	38	39	41	43	44	48	48	49	50	51	100
31	22	25	29	33	37	39	40	42	44	45	48	48	49	50	51	100
32	23	25	29	33	37	39	41	43	44	45	48	49	49	50	51	100
33	23	26	30	34	38	40	42	43	45	46	49	49	50	51	51	100
34	24	26	30	34	38	40	43	44	45	46	49	50	50	51	51	100
35	24	26	30	34	38	41	44	45	46	47	49	50	50	51	51	100
36	24	26	30	34	38	41	44	45	46	47	49	50	50	51	51	100
37	23	26	30	34	38	41	44	45	46	47	49	49	49	50	51	100
38	23	27	30	35	39	42	44	45	47	47	48	48	48	49	50	100
39	22	27	30	35	39	42	44	45	47	47	48	48	48	49	50	100
40	22	27	30	35	39	42	44	45	47	47	48	48	48	49	50	100
41	22	27	30	35	38	41	43	44	46	46	47	48	48	49	50	100
42	21	27	30	34	38	41	43	44	45	46	47	47	47	48	50	100
43	21	26	30	34	38	41	43	44	45	46	47	47	47	48	50	100
44	20	26	30	33	37	40	42	43	44	45	46	46	46	47	51	100

*Factors are a percent of the 1980 CSO Female Nonsmoker Mortality (without 10 year select) rate of mortality for the attained age. Factors are based on the 1980 CSO Female Nonsmoker Mortality Table and 100% of the 83-86 SOA intercompany experience

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SECTION 1409.APPENDIX A ILLUSTRATION E

FEMALE NONSMOKER — BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
45	20	26	30	33	36	39	41	42	43	44	45	46	47	51	52	100
46	19	25	29	32	35	38	40	42	43	44	45	46	47	50	51	100
47	19	24	28	31	34	37	39	41	43	44	45	46	47	49	50	100
48	18	24	28	30	33	36	39	41	42	44	45	46	46	49	48	100
49	18	23	27	29	32	35	38	40	42	44	45	46	46	48	47	100
50	17	22	26	28	31	34	37	40	42	44	45	46	46	47	46	100
51	17	21	25	28	31	34	37	40	41	43	44	45	46	45	45	100
52	16	21	25	28	31	34	37	39	40	42	42	43	43	45	44	100
53	16	20	24	27	31	34	36	39	40	40	41	41	42	43	43	100
54	15	20	24	27	31	34	36	38	39	39	39	40	40	42	42	100
55	15	19	23	27	31	34	36	38	38	38	38	38	39	41	41	100
56	15	19	23	27	30	33	35	37	37	37	38	38	38	40	40	100
57	15	19	23	26	29	32	34	35	36	36	37	37	38	39	39	100
58	14	19	22	26	29	30	32	34	34	35	37	37	37	39	39	100
59	14	19	22	25	28	29	31	32	33	34	36	36	37	38	38	100
60	14	19	22	25	27	28	30	31	32	33	36	36	36	37	37	100
61	14	18	21	24	26	27	29	30	31	32	35	35	35	36	37	100
62	13	18	21	23	25	26	28	29	30	31	34	34	35	36	37	100
63	13	17	20	23	25	26	28	28	29	30	33	34	34	36	36	100
64	12	17	20	22	24	25	27	27	28	29	32	33	34	35	36	100
65	12	16	19	21	23	24	26	26	27	28	31	32	33	35	36	100
66	12	16	19	21	22	23	25	26	27	28	32	33	33	35	36	100
67	12	16	18	20	22	23	25	26	27	29	32	33	34	36	37	100
68	11	15	18	20	21	22	24	25	26	28	29	33	34	36	37	100
69	11	15	17	19	21	22	24	25	26	28	30	33	34	35	37	100
70	11	15	17	19	20	21	23	25	26	28	30	34	35	37	38	100
71	17	21	23	24	25	26	28	30	33	35	38	39	41	42	43	100
72	26	28	30	31	32	33	35	38	39	43	44	44	45	46	46	100
73	29	32	34	35	36	37	38	40	42	44	47	48	48	50	50	100
74	35	38	39	41	41	42	44	45	47	49	52	52	54	55	55	100
75	41	43	45	46	47	47	49	50	52	53	56	57	57	58	59	100
76	47	49	50	51	52	53	54	55	57	58	60	61	61	62	63	100
77	53	55	56	57	57	58	59	60	62	63	65	65	65	66	67	100
78	58	60	61	62	63	64	65	66	67	69	70	70	70	71	71	100
79	64	66	67	68	68	69	70	71	72	74	74	74	74	75	75	100
80	70	72	72	73	73	74	74	75	76	77	78	78	78	79	79	100
81	76	77	78	78	79	79	79	80	81	81	82	83	83	83	83	100
82	82	83	83	84	84	84	85	85	86	86	87	87	87	88	88	100
83	88	89	89	89	89	89	90	90	90	91	91	91	91	92	92	100
84	94	94	94	95	95	95	95	95	95	95	96	96	96	96	96	100
85	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
86	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
87	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
88	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
89	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

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SECTION 1409.APPENDIX A ILLUSTRATION E

FEMALE NONSMOKER - BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
90	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
91	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
92	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
93	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
94	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
95	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
96	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
97	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
98	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
99	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Factors are a percent of the 1980 CSO Female Nonsmoker Mortality (without 10 year select) rate of mortality for the attained age. Factors are based on the 1980 CSO Female Nonsmoker Mortality Table and 100% of the 83-86 SOA intercompany experience.

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SECTION 1409.APPENDIX A ILLUSTRATION F

FEMALE SMOKER - BASE VALUATION SELECTION FACTORS*

ISSUE AGE	DURATION															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+
0	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
1	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
2	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
3	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
4	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
5	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
6	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
7	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
8	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
9	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
10	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
11	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
12	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
13	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
14	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
15	92	92	92	92	92	92	92	92	93	93	93	93	94	94	94	100
16	83	84	84	84	84	84	84	84	85	85	85	87	87	88	88	100
17	75	76	77	77	77	77	77	77	78	78	80	80	81	82	83	100
18	66	67	69	69	69	69	69	69	70	71	73	73	75	75	77	100
19	58	59	61	61	61	61	61	61	63	63	67	67	68	69	71	100
20	49	51	53	53	53	53	53	53	55	56	60	60	62	63	65	100
21	47	49	50	52	52	52	53	54	56	57	61	62	63	64	66	100
22	45	47	50	51	52	52	53	54	56	57	63	63	64	65	67	100
23	43	46	49	51	51	51	53	55	57	58	64	65	66	67	69	100
24	41	44	47	50	51	51	53	55	57	58	66	66	67	68	70	100
25	39	42	46	49	50	50	53	56	58	59	67	68	68	69	71	100
26	38	42	46	50	51	52	54	57	59	60	68	68	69	70	72	100
27	38	41	46	50	53	53	56	58	60	61	68	69	69	70	72	100
28	38	41	46	51	54	55	57	60	62	63	69	69	70	71	73	100
29	37	40	46	51	56	56	59	61	63	64	69	70	71	72	74	100
30	37	40	46	52	57	58	60	62	64	65	70	71	72	73	75	100
31	37	40	46	52	57	59	61	63	65	66	70	71	72	73	75	100
32	37	40	46	52	57	59	62	63	65	66	70	71	72	73	75	100
33	37	41	46	52	57	60	62	64	66	67	71	72	73	74	76	100
34	37	41	45	52	57	60	63	64	66	67	71	72	73	74	76	100
35	37	41	45	52	57	61	64	65	66	67	71	72	73	74	76	100
36	36	41	45	52	57	61	64	65	66	67	71	72	73	74	76	100
37	35	40	45	52	57	61	64	65	66	67	71	72	73	74	76	100
38	34	40	44	51	56	60	63	65	66	67	71	72	73	74	76	100
39	33	39	44	51	56	60	63	65	66	67	71	72	73	74	76	100
40	32	39	44	51	56	60	63	65	66	67	71	72	73	74	76	100
41	31	39	44	50	55	59	62	64	66	68	70	71	72	73	75	100
42	31	38	44	50	54	58	61	63	65	67	69	70	71	72	74	100
43	30	38	43	49	54	58	61	63	65	67	69	70	71	72	74	100
44	30	37	43	49	53	57	60	63	65	66	68	69	70	71	73	100

*Factors are a percent of the 1980 CSO Female Smoker Mortality (without 10 year select) rate of mortality for the attained age. Factors are based on the 1980 CSO Female Smoker Mortality Table and 100% of the 83-86 SOA intercompany experience.

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SECTION 1409.APPENDIX A ILLUSTRATION F

SECTION 1409.APPENDIX A ILLUSTRATION F

FEMALE SMOKER - BASE VALUATION SELECTION FACTORS*

FEMALE SMOKER - BASE VALUATION SELECTION FACTORS*

ISSUE AGE		DURATION																
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16+			
45	29	37	43	48	52	56	59	62	64	66	68	70	72	79	81	100	100	100
46	28	36	42	47	51	55	58	62	64	66	69	71	72	78	80	100	100	100
47	27	35	41	46	50	54	58	62	64	67	69	71	72	78	79	100	100	100
48	27	35	40	44	49	53	57	62	64	67	70	72	73	77	77	100	100	100
49	26	34	39	43	48	52	57	62	64	68	70	72	73	77	76	100	100	100
50	25	33	38	42	47	51	56	62	64	68	71	73	73	76	75	100	100	100
51	24	32	37	42	47	51	56	62	63	67	69	71	71	75	74	100	100	100
52	24	31	36	42	47	52	57	62	63	66	68	69	70	73	74	100	100	100
53	23	31	36	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
54	23	30	36	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
55	22	29	35	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
56	22	29	35	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
57	22	29	35	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
58	22	29	35	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
59	23	30	36	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
60	23	30	36	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
61	22	29	35	40	45	50	55	60	61	64	66	67	67	70	70	100	100	100
62	22	28	34	39	44	49	54	59	60	63	65	66	66	69	69	100	100	100
63	21	28	34	39	44	49	54	59	60	63	65	66	66	69	69	100	100	100
64	21	27	33	37	41	45	49	53	54	57	58	58	58	61	61	100	100	100
65	20	26	32	36	40	44	48	52	53	56	57	57	57	60	60	100	100	100
66	20	26	32	36	39	42	46	49	51	54	55	55	55	58	58	100	100	100
67	20	26	32	36	39	42	46	49	51	54	55	55	55	58	58	100	100	100
68	20	26	31	35	38	41	44	47	49	52	53	53	53	56	56	100	100	100
69	20	26	31	34	38	41	43	45	47	49	51	51	51	54	54	100	100	100
70	20	26	31	34	37	40	42	44	47	49	51	51	51	54	54	100	100	100
71	25	31	36	41	46	51	56	61	62	65	67	68	68	71	71	100	100	100
72	31	36	40	43	45	48	50	51	54	56	58	59	59	61	61	100	100	100
73	36	41	45	47	50	52	54	55	58	59	61	62	62	64	64	100	100	100
74	41	46	49	52	54	56	57	59	61	63	65	66	66	67	67	100	100	100
75	47	51	54	56	58	60	61	63	65	66	68	69	69	70	69	100	100	100
76	52	56	59	60	62	64	65	66	68	69	70	71	71	72	72	100	100	100
77	57	61	63	65	66	68	69	70	72	73	74	74	74	75	75	100	100	100
78	63	65	68	69	71	72	73	74	75	76	77	77	77	78	78	100	100	100
79	68	70	72	74	75	76	77	78	79	80	81	81	81	82	82	100	100	100
80	73	75	77	78	79	80	81	81	82	83	84	84	84	85	85	100	100	100
81	79	80	82	83	84	85	85	85	86	86	87	87	87	88	88	100	100	100
82	84	85	86	87	88	88	89	89	90	91	91	91	91	92	92	100	100	100
83	89	90	91	92	92	93	93	93	94	94	94	94	94	95	95	100	100	100
84	95	95	96	96	96	96	96	96	96	96	96	96	96	97	97	100	100	100
85	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
86	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
87	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
88	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
89	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Factors are a percent of the 1980 CSO Female Smoker Mortality (without 10 year select) rate of mortality for the attained age
Factors are based on the 1980 CSO Female Smoker Mortality Table and 100% of the 83-86 SOA intercompany experience

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1) Heading of the Part: Personnel Records Review Act

2) Code Citation: 56 Ill. Adm. Code 355

3) Section Number: Proposed Action:

355.100	New Section
355.110	New Section
355.120	New Section
355.130	New Section
355.140	New Section
355.150	New Section
355.200	New Section
355.210	New Section
355.300	New Section
355.310	New Section
355.320	New Section
355.330	New Section
355.340	New Section
355.350	New Section
355.360	New Section
355.370	New Section
355.380	New Section
355.390	New Section
355.400	New Section
355.410	New Section
355.420	New Section
355.500	New Section
355.510	New Section
355.600	New Section
355.610	New Section
355.620	New Section
355.630	New Section
355.700	New Section
355.710	New Section
355.720	New Section
355.730	New Section
355.800	New Section
355.810	New Section
355.820	New Section
355.830	New Section
355.840	New Section
355.850	New Section
355.860	New Section
355.870	New Section
355.880	New Section
355.890	New Section

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4) Statutory Authority: Implementing and authorized by Section 12(a) of the Personnel Records Review Act [820 ILCS 40/12(a)].

5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking will provide the Illinois Department of Labor with standards necessary to administer and enforce the provisions of the Personnel Records Review Act [820 ILCS 40], including but not limited to defining statutory terms and setting forth an investigation and dispute resolution process.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This proposed rulemaking will not create or enlarge a state mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: In writing, within 45 days of the publication to:

Scott D. Miller, Chief Legal Counsel
Illinois Department of Labor
160 North LaSalle Street, Suite C-1300
Chicago, IL 60601
(312) 793-1805

12) Initial Regulatory Flexibility Analysis:

A) Type of small business, small municipalities and not for profit corporations affected: An employer who employs fewer than five employees exclusive of the employer's parent, spouse or child or other member of his/her immediate family is not subject to the Personnel Records Review Act. All other small businesses, small municipalities and not for profit corporations are affected.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rule(s) begins on the next page:

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 355
PERSONNEL RECORDS REVIEW ACT

SUBPART A: GENERAL PROVISIONS

Section	
355.100	Policy
355.110	Application of the Act
355.120	Definitions
355.130	The Use of Federal and State Definitions of Various Terms
355.140	Length of Coverage for an Employer
355.150	Forbidden Activity Covered by Other Laws
355.160	Communication with the Director and the Department

SUBPART B: INSPECTION AND COPYING OF PERSONNEL RECORDS

Section	
355.200	Inspection of Personnel Records
355.210	Copying of Personnel Records

SUBPART C: EXCEPTIONS TO AN EMPLOYEE'S RIGHT
TO INSPECT PERSONNEL RECORDS

Section	
355.300	Scope of Subpart C
355.310	Burden of Proof
355.320	Letters of Reference
355.330	External Peer Review Documents
355.340	Test Document
355.350	Materials Relating to an Employer's Staff Planning
355.360	Clearly Unwarranted Invasion of Personal Privacy
355.370	An Employer that does not Maintain Personnel Records
355.380	Records Otherwise Discoverable in a Judicial Proceeding
355.390	Investigatory or Security Records

SUBPART D: USE OF PERSONNEL RECORDS INFORMATION
IN JUDICIAL AND QUASI-JUDICIAL PROCEEDINGS

Section	
355.400	Scope of Subpart D
355.410	Limitation to an Employer's Use of Personnel Records Information
355.420	An Employer's Intentional Exclusion of Personnel Information

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SUBPART E: CORRECTION OF PERSONNEL RECORDS

Section	
355.500	Correcting Information Contained in Personnel Records
355.510	Scope of Correction or Rebuttal

SUBPART F: DISCLOSURE OF DISCIPLINARY ACTIONS

Section	
355.600	Permissible Disclosure of a Disciplinary Report, Letter of Reprimand or Other Disciplinary Action
355.610	Impermissible Disclosure of a Disciplinary Report, Letter of Reprimand or Other Disciplinary Action
355.620	Disclosure Without Written Notice
355.630	Review of Record Prior to Release

SUBPART G: RECORDS OF NONEMPLOYMENT ACTIVITIES

Section	
355.700	General Rule
355.710	Exceptions to General Rule
355.720	Policy Underlying the Exceptions
355.730	Burden of Proof

SUBPART F: ADMINISTRATION AND ENFORCEMENT

Section	
355.800	Filing of Complaint and the Employer's Response
355.810	Convening an Informal Investigative Conference
355.820	Continuances of Informal Investigative Conference
355.830	Application of the Rules of Evidence - Pleadings and Procedures in an Informal Investigative Conference
355.840	Representatives and Witnesses in Informal Investigative Conference
355.850	Contumacious Conduct in Informal Investigative Conference
355.860	Telephone Conference
355.870	Department Request for Subpoenas and Search Warrants
355.880	Request for Review
355.890	Private Cause of Action

AUTHORITY: Implementing and authorized by Section 12(a) of the Personnel Records Review Act [820 ILCS 40/12(a)].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 355.100 Policy

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A strong public policy exists to provide an employee with a right to review, copy and correct personnel records, and to prescribe the gathering and use of information about the employee by an employer.

Section 355.110 Application of the Act

- a) The Department of Labor will assist a person who files a Personnel Records Review Act complaint:
 - 1) within one year of his/her termination date with an employer; or
 - 2) when currently employed; or
 - 3) when subject to recall after layoff; or
 - 4) when on a leave of absence with a right to return at a position with an employer.
- b) A Personnel Records Review Act complaint must concern personnel records of a current or former employee who performed services for the benefit of an employer:
 - 1) within the State of Illinois. This does not include a person who performed sporadic work in Illinois for an employer located outside of Illinois.
 - 2) outside the State of Illinois if the employer is located in this State. This does not include a person who has a permanent work station outside the State of Illinois and who performed a substantial portion of his/her duties outside Illinois.

Section 355.120 Definitions

"Act" means the Personnel Records Review Act [820 ILCS 40].

"Arbitration" means the referral of a dispute to an impartial third person (an arbitrator) chosen by the parties to the dispute who agree in advance to abide by the arbitrator's award issued after a hearing at which both parties have an opportunity to be heard.

"Complaint" means a signed and completed application on a form provided by and submitted to the Illinois Department of Labor, alleging a violation of the Act and accompanied by all supporting documentation.

"Complainant" means any person who submits a complaint.

"Day" means a calendar day, unless otherwise provided by the Act or this Part.

"Department" means the Illinois Department of Labor and its duly authorized representatives.

"Director" means the Director of the Department or a duly authorized representative.

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"Employee" means any person described in Section 355.110(a) of this Subpart who is permitted or suffered to work by an employer. The Director and the Department will consider the following factors as significant when determining whether a person is an employee or an independent contractor:

- the degree of control the alleged employer exercised over the person;
- the extent to which the services rendered by the person are an integral part of the alleged employer's business;
- the extent of the relative investments of the individual and the alleged employer;
- the degree to which the person's opportunity for profit and loss is determined by the alleged employer;
- the permanency of the relationship;
- the skill required in the claimed independent operation.

The common law standards relating to master and servant, the parties' designations and terminology, and the person's status for tax purposes, are not controlling. The total activity or situation is controlling.

"Employer" means any individual, corporation, partnership, labor organization, unincorporated association, the State of Illinois, an agency or a political subdivision of the State, or any other legal, business, or commercial entity which has 5 or more employees exclusive of the employer's spouse or child or other members of his/her immediate family, or any person or group of persons acting directly or indirectly in the interest of an employer.

"Hearing Officer" means an individual duly authorized by the Department to determine the merits of a complaint alleging violations of the Act.

"Immediate family", as used in the definition of employer in Section 1(b) of the Act and Section 355.120 of this Subpart, means a person related to a subject employer either by blood, marriage or adoption and living as part of the same household.

"Institution of higher education" means colleges offering a course of general studies and authorized to grant associate's, bachelor's, and/or graduate degrees, and universities providing facilities for teaching and research and authorized to grant bachelor's and graduate

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degrees.

"Judicial proceeding" means any pending claim in a State or Federal court.

"Legal action" means any actual case or controversy in a State or Federal court.

"Personnel documents" means records that contain information which is, has been or is intended to be used in determining an employee's qualifications for employment, promotion, transfer, additional compensation, discharge or other disciplinary action. Personnel documents include, but are not limited to, an employee's personal history, salary surveys, evaluations by supervisors, and personnel action forms such as job status, discipline, wage rate increases, notice of injury, sick leave, lay-off, separation notices, and personnel transactions including requisitions and referrals. The term personnel documents also includes internal recommendations and advisory statements such as university internal peer review statements, sales contracts written by a commissioned salesperson, a manager or interviewer's handwritten notes or promotion recommendation reports used to determine a person's qualifications, and notes kept privately by the maker that were used in determining a person's employment status. Medical records are not personnel documents for purposes of the Act.

"Quasi-judicial proceeding" means an adjudicatory action (not including rulemaking, rulemaking, or quasi-legislative, informational, or similar actions) in which the individual legal rights, duties, or privileges of a party are required by law to be determined by a public administrative officer or body only after an opportunity for a hearing.

"Record" means any writing, graphic matter or other tangible thing, whether on paper, computer disc or diskette, computer core memory, electronic mail, CD-ROM, film, recording tape, stenographic tape, microfilm or any other substance; whether printed, typewritten, written by hand, or produced by any process; whether a copy or original; including, but not limited to: letters, reports, communications, memoranda, correspondence, summaries, transcripts of oral conversations, original or preliminary notes, diaries, calendars, instructions, notations, publications, pamphlets, diary entries, desk pads, telephone pads, minutes of meetings, studies, legal documents, billing records, drafts, accounts, work papers, invoices, time records, accounting worksheets, canceled checks, vouchers, check stubs, ledgers, journals, books, drawings, graphs, charts, photographs, phonograph records, voice recordings, computer printouts, statistical computations, data processing cards, other data

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compilations and any other writing or recording of any kind. The term "record" also includes every copy of a writing where such copy contains any commentary or notation of any kind that does not appear on the original or on any other copy.

"Redacted document" means a record that an employer discloses to an employee and/or representative in a manner that withholds the identity of the source. For example, an employer may divulge the substantive content of a record by deleting the source's name, address, and recognizable words and/or phrases that would reveal the identity of the source.

"Representative" means an attorney, or a person from a union or collective bargaining unit, that an employee designates in writing to inspect his/her personnel records.

Section 355.130 The Use of Federal and State Definitions of Various Terms

For guidance in the interpretation of the Act and this Part, the Director and the Department may refer to the decisions construing the Federal Freedom of Information Act, as amended (5 U.S.C. 552(a) - (e)), the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Illinois Freedom of Information Act (5 ILCS 140), and case law of other states construing similar statutes. The Director and the Department may interpret the Act similarly to other comparable statutes that they administer and enforce, unless legislative history or purpose suggest material differences.

Section 355.140 Length of Coverage for an Employer

- a) An employer must have employed at least five employees during any quarter of a calendar year in which it created, obtained, maintained, or used any personnel records information subject to an inspection request under Sections 2 and 5 of the Act. It is not necessary that the five employees actually perform services on each work day in a given quarter to be counted for this purpose. An employer must have at least five employees on its payroll during a given quarter.
- b) A part-time employee, a temporary employee, a leased employee, an employee on paid vacation, and an employee on a leave of absence will be counted as employed during a quarter, so long as they are on the employer's payroll (not necessarily at the same time) during the quarter. Employees on long-term or indefinite lay-off will not be counted.

Section 355.150 Forbidden Activity Covered by Other Laws

Nothing in the Act or this Part is designed or intended to enable a person or employer to perform any act or activity forbidden by the laws of this State or of the United States.

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Section 355.160 Communication with the Director and the Department

All employers subject to the provisions of the Act, and all persons aggrieved by reason of an alleged violation of the Act shall address all communications, complaints, applications and correspondence to the Department's Chicago office.

SUBPART B: INSPECTION AND COPYING OF PERSONNEL RECORDS

Section 355.200 Inspection of Personnel Records

- a) A contract or agreement under which an employee prospectively waives his/her right to inspect personnel records is unenforceable.
- b) An employer shall permit an employee and/or representative to inspect personnel documents within the employer's possession or control (except as provided in Section 10 of the Act and Subpart C of these rules):
 - 1) upon an employee and/or representative's request. An employer may require a request to be submitted in writing on a form supplied by the employer.
 - 2) at least 2 times per calendar year, unless otherwise provided in a collective bargaining agreement.
 - 3) within 7 working days after the employee made the request, or within 14 working days if the employer can show that it cannot reasonably comply with the 7 day deadline.
 - 4) at a location reasonably near the employee's work station and during normal working hours, unless a different time or place would be more convenient for the employee.
- c) The employer may take reasonable precautions to protect its records from loss, damage, or alteration, including but not limited to prohibiting an employee and/or representative from removing any part of such records from the premises where it is made available for inspection.
- d) The employer shall mail to an employee, upon the employee's written request, a copy of a requested personnel record when the employee demonstrates that s/he is unable to review the records at the employing unit. This provision does not apply to an employee who has designated a representative to inspect his/her personnel records.

Section 355.210 Copying of Personnel Records

- a) An employer may require an employee and/or representative to inspect personnel documents information before it provides the employee and/or representative a copy of the information, except as provided in Section 2 of the Act and Section 355.200(d) of this Subpart.
- b) An employer may require payment of reasonable copying fees before it provides an employee and/or representative with a copy of the requested records.
- c) An employer may charge fees reasonably calculated to reimburse its

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actual cost for reproducing records and for the use, by any person, of the equipment of the employer to copy records. Such fees shall exclude the costs of postage, the time spent searching, reviewing, and copying records.

SUBPART C: EXCEPTIONS TO AN EMPLOYEE'S RIGHT TO INSPECT PERSONNEL RECORDS

Section 355.300 Scope of Subpart C

Section 10 of the Act allows, rather than requires, an employer to exclude information from an employee and/or representative's inspection of personnel records. An employer may permit an employee and/or representative to inspect information covered by an exception, unless the disclosure of the information is prohibited by another applicable statute or regulation. The exceptions shall be narrowly construed to accomplish the policy stated in Section 355.100 of Subpart A.

Section 355.310 Burden of Proof

The employer shall bear the burden of providing a detailed justification for its claim of exception, addressing each requested document specifically and in a manner enabling the employee, representative, and/or the Department to reasonably respond.

Section 355.320 Letters of Reference

- a) An employer may exclude from an employee and/or representative's inspection written letters of reference (including electronic mail) about that employee from a present or former employer to a prospective employer or to an interested third party. This exception protects the confidential source of information contained in a letter of reference rather than the content of the document. The exception does not include oral references transcribed into handwritten notes by the recipient.
- b) The employer is required to disclose the redacted content of a letter of reference.

Section 355.330 External Peer Review Documents

- a) An institution of higher education may exclude from an employee and/or representative's inspection reports by an external scholar that evaluates a college or university level instructor's teaching, research and/or scholarly performance (even though the instructor retains some control over the selection of the scholar), unless the external scholar receives compensation from the educational institution for his/her evaluation of the instructor. The purpose of the exception is to ensure that individuals assisting with the

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- external peer review process will be assured of confidentiality, which will enhance willingness to participate in objective reviews.
- b) The employer is required to disclose the redacted content of an external peer review document.

Section 355.340 Test Document

- a) An employer may protect the integrity of its testing program (including but not limited to psychological aptitude tests) and the privacy rights of the participants, interviewers, and reviewers thereof by excluding any portion of a test document from an employee or representative's inspection. This exception protects the actual test questions, employee answer sheets, and an interviewer's or reviewer's hand written notes and interpretive reports of the employee's test.
- b) An employee may view the cumulative scores of the test, in the aggregate, or by section.

Section 355.350 Materials Relating to an Employer's Staff Planning

- a) An employer may protect sensitive, privileged, or confidential information when disclosure:
- 1) would critically undermine the public welfare;
 - 2) is not easily accessible to competitors;
 - 3) would inflict substantial competitive harm if the information was used by a rival; or
 - 4) would make it more difficult for the employer to obtain similar information in the future.
- b) This exception does not protect sensitive, privileged, or confidential information that an employer has used, is using, or is intending to use in determining that employee's qualifications for employment, promotion, transfer, additional compensation, discharge or other disciplinary action.

Section 355.360 Clearly Unwarranted Invasion of Personal Privacy

- a) An employer may withhold information of a personal nature about a person other than the employee on whose behalf the employee and/or representative is requesting the records, if the disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy. A person's privacy encompasses all interests involving that individual's control of information concerning him/herself, including but not limited to information that identifies his/her name, race, address, and unlisted telephone number. The following is a two part test for applying this exception:
- 1) a privacy interest must be implicated. This means a person other than the employee and/or representative requesting the records must possess a significant privacy interest in not having the

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information at issue divulged and there must be a substantial probability that this interest would be invaded by the disclosure. If no privacy interest is implicated, the records must be released; and

2) if a privacy interest is implicated, a determination must be made that evaluates:

- A) whether the requested disclosure of information furthers the purpose of the Act (as stated in Section 355.100 of Subpart A); and
 - B) whether there is a possibility that the purpose of the Act could be accomplished without the requested disclosure; and
 - C) the scope of the request or the availability of alternative sources for obtaining the information; and weighs these factors against
 - D) the gravity of the alleged invasion of privacy.
- b) A person has a significant privacy interest in not having information disclosed to the requesting employee or representative when the disclosure would violate clearly mandated public policy expressed in the Federal or State Constitution, a Federal or State statute or regulation, or a county or municipal ordinance or regulation.
- c) A person has a significant privacy interest to have his/her identity protected from exposure when s/he provides statements used to determine an employee's qualifications for employment, promotion, additional compensation, termination or other disciplinary action, under the express promise that the source of the information would be confidential.
- d) A person has a significant privacy interest to have his/her identity protected from exposure when the potential for embarrassment, harassment, or other repercussions is reasonably expected to result because s/he was subject to or participated in security or criminal investigations.
- e) A waiver of privacy interests occurs when the subject person either voluntarily discloses his/her identity or dies.
- f) A substantial probability that a significant privacy interest would be invaded by disclosure exists when nonexempted materials are inseparable (cannot not be reasonably isolated) from exempt materials. An employer is required to divulge separable information by disclosing redacted personnel documents. An employer is further required to disclose personnel documents recorded in the author's own recognizable handwriting by preparing copies, typewritten or handwritten by a third party.

Section 355.370 An Employer that does not Maintain Personnel Records

- a) An employee's right to inspect personnel records does not apply to an employer that does not maintain personnel records.
- b) A personnel record is identified by the information contained within, not by its form or where an employer maintains the record. Personnel

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records are subject to disclosure whether an employer maintains the records in a "personnel file", under a different label, or does not keep such records in a file. Personnel records information is subject to disclosure when the information was created or obtained by the employer, and within the employer's possession or control, at the time the inspection request is made.

- c) The redaction of a personnel record and the required disclosure of the nonexempt information does not constitute the creation and maintenance of a new nonexempt record from an otherwise exempt record. The same follows when the employer is required to prepare a computer program to separate exempt from nonexempt information sorted on a computer tape or similar record, or a special typewritten copy of a handwritten report, in order to protect the identity of a document's author.

Section 355.380 Records Otherwise Discoverable in a Judicial Proceeding

An employer may exclude information from an employee and/or representative's inspection under the Act that is subject to discovery in a judicial proceeding between the employee and employer. This exception does not apply to an arbitration or a quasi-judicial proceeding.

Section 355.390 Investigatory or Security Records

An employee and/or representative may not inspect an employer's investigatory or security records unless or until the employer takes adverse personnel action based on information contained therein. The employee and/or representative has the burden of demonstrating that the employer used the records in an adverse personnel action.

SUBPART D: USE OF PERSONNEL RECORDS INFORMATION IN JUDICIAL AND QUASI-JUDICIAL PROCEEDINGS

Section 355.400 Scope of Subpart D

Section 4 of the Act is limited to judicial and quasi-judicial proceedings, excluding arbitrations.

Section 355.410 Limitation to an Employer's Use of Personnel Records Information

- a) Section 4 of the Act prohibits an employer from using information in a judicial or quasi-judicial proceeding that it did not disclose as required by the Act. A judge in a judicial proceeding or a hearing officer in a quasi-judicial proceeding may permit an employer to use the information in the proceeding if the employee agrees to its admission or has been given a reasonable opportunity to review the information.
- b) Section 4 of the Act applies only to judicial and quasi-judicial

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proceedings that hear disputes over qualifications for employment, promotion, transfer, additional compensation, discharge or other disciplinary actions. For example, Section 4 of the Act is applicable, but not limited to claims for wages or final compensation, workplace safety complaints, retaliatory discharge and defamation actions, unemployment insurance hearings and employment discrimination disputes. Section 4 of the Act does not apply to evidentiary decisions on the access to workers compensation benefits or similar topics that are not related to the on-going employment relationship or the creation and/or termination of the relationship.

Section 355.420 An Employer's Intentional Exclusion of Personnel Information

An employer's intentional exclusion of personnel information from an employee and/or representative's inspection is a voluntary and conscious act. All of the facts and circumstances surrounding an employer's exclusion of personnel information shall be taken into account in determining whether the employer's conduct was intentional. An employer's exclusion of personnel information will be deemed a voluntary and conscious act, among other situations, if the employer has possession or control of personnel information subject to an inspection request by an employee and/or representative, the employer has knowledge of its duty to divulge the records, and the employer failed to disclose the requested information.

SUBPART E: CORRECTION OF PERSONNEL RECORDS

Section 355.500 Correcting Information Contained in Personnel Records

An employee who disagrees with the contents of a personnel document may attach a written statement to the document explaining his/her position, when the employee and employer fail to agree upon the correction or removal of the disputed information. The employer must include the employee statement whenever it releases the disputed information to a third party as long as the disputed document is part of the personnel record.

Section 355.510 Scope of Correction or Rebuttal

An employee's right to correct or rebut personnel records information pertains to errors in factual determinations and not to an employer's subjective judgments and evaluations of facts.

SUBPART F: DISCLOSURE OF DISCIPLINARY ACTIONS

Section 355.600 Permissible Disclosure of a Disciplinary Report, Letter of Reprimand or Other Disciplinary Action

An employer is required to provide an employee with written notice (by first class mail, on or before the day the information is divulged) before it

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discloses a disciplinary report, letter of reprimand, or other disciplinary action to a third party, e.g., to a person or an entity that is not a member of either the employer's organization or the employee's union. The employer's organization includes, but is not limited to, a peer review committee, an employee committee established pursuant to the employee handbook disciplinary procedure, or an employee, officer, or agent of the employer who needs the information to perform his/her duties, such as the employer's personnel officer or attorney.

Section 355.610 Impermissible Disclosure of a Disciplinary Report, Letter of Reprimand or Other Disciplinary Action

An employer's verbal or nonverbal disclosure of disciplinary information to a third party violates Section 7 of the Act when there is evidence that the employer retrieved the information from personnel documents, rather than from his/her independent knowledge. The issue is whether an employee, officer or agent who allegedly disclosed disciplinary information had custody, control or access to such personnel documents. For example, an employer does not violate the Act when its employee divulges disciplinary information and the evidence demonstrates that the employee was party to the events that s/he communicated and never had access to the personnel documents that contained the information.

Section 355.620 Disclosure Without Written Notice

Section 7 of the Act does not apply when an employee signs a written employment application that incorporates a waiver of his/her right to written notice of the disclosure of disciplinary information, when the disclosure is ordered in a legal action or arbitration, or when the information is required as part of a government investigation.

Section 355.630 Review of Record Prior to Release

An employer has a duty to review personnel records and exclude any disciplinary report, letter of reprimand or other records of disciplinary action that are over four years old from a release to a third party, unless the release is ordered to a party in a legal action or arbitration.

SUBPART G: RECORDS OF NONEMPLOYMENT ACTIVITIES

Section 355.700 General Rule

Section 9 of the Act prohibits an employer from collecting and/or maintaining information on any employee's associations, political activities, publications, communications, or nonemployment activities.

Section 710 Exceptions to General Rule

Section 9 of the Act provides three exceptions to the general rule:

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- a) when an employee furnishes an employer with either the information in writing or with written permission to collect such information.
- b) when the subject activities occur at work, or during work hours, and interfere with the employee's (or another employee's) job duties.
- c) when the employee's activities under scrutiny, regardless of when and where occurring constitute criminal conduct or may reasonably be expected to harm the employer's property, operations or business, or could cause the employer financial liability.

Section 355.720 Policy Underlying the Exceptions

The purpose of the three exceptions stated in Section 355.710 of this Subpart is to balance an employee's privacy interests against an employer's interest in protecting itself from crime and being held liable for failure to adequately check the background of, maintain records on, and supervise employees who come in contact with the public.

Section 355.730 Burden of Proof

The exceptions shall be narrowly construed to further the purpose of the Act (as stated in Section 355.100 of Subpart A) and the general rule stated in Section 355.700 of this Subpart. The employer shall bear the burden of providing a detailed explanation (with specificity and in a manner enabling the employee, representative, and/or the Department to reasonably respond) demonstrating that its application of an exception was in furtherance of the policy stated in Section 355.720 of this Subpart.

SUBPART F: ADMINISTRATION AND ENFORCEMENT

Section 355.800 Filing of Complaint and the Employer's Response

- a) All complaints shall be filed at the Department's Chicago office.
- b) The Department shall review each complaint to determine whether there is cause for investigation.
- c) When appropriate, the Department will notify the employer of the existence of a complaint, and furnish a copy of the complaint to enable a reasonable response.
- d) The employer's response must be filed with the Department's Chicago office within 10 days after notification.
- e) Upon receipt of an employer's response disputing the complaint, the Department may, when appropriate, send a copy of the employer's response to the complainant.
- f) If the complainant disagrees with the employer's response, s/he must submit a response to the Department's Chicago office within 10 days stating his/her reasons for the disagreement. If the complainant fails to submit a response, the Department shall dismiss the complaint.
- g) If the employer fails to respond within the prescribed deadline, the

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Department shall review the information submitted by the complainant to determine whether a search warrant or subpoena is necessary, or whether the Department should convene an informal investigative conference.

- h) The Department may consider untimely submissions by either party upon written request by the party within a reasonable period of time, if there is a showing that the delay was occasioned by good cause beyond the party's control.

Section 355.810 Convening an Informal Investigative Conference

- a) When the Department is unable to resolve a dispute upon review of the information submitted by the parties, the Department may schedule an informal investigative conference before a Hearing Officer. The Department conducts informal investigative conferences to obtain further information, to determine if there is a violation of the Act, and to attempt to resolve the matter equitably by conference, conciliation, or persuasion.
- b) A written notice of an informal investigative conference shall be sent to the parties not less than 10 days prior to the date of the conference.

Section 355.820 Continuances of Informal Investigative Conference

Parties shall be prepared to proceed at the informal investigative conference, presenting all testimonial and/or documentary evidence necessary to support their positions. A request by one party for a continuance will be granted prior to the conference only if the other party agrees and the Hearing Officer grants permission. A request for a continuance must be made in person to the Hearing Officer at the time of the conference and will be granted only upon a showing of good cause.

Section 355.830 Application of the Rules of Evidence - Pleadings and Procedures in an Informal Investigative Conference

The Hearing Officer is not bound either by the rules of evidence or by any technical or formal rules of pleading or procedure when s/he conducts an informal investigative conference.

355.840 Representatives and Witnesses in Informal Investigative Conference

A party may be accompanied at an informal investigative conference by his/her representative, and by a translator, if necessary. The parties may bring witnesses to the conference, but the Hearing Officer shall decide which witnesses shall be heard and the order in which they shall be heard. The Hearing Officer may exclude witnesses and other persons from the conference when they are not giving testimony. The Hearing Officer shall conduct and control the conference. No tape recordings, stenographic report or other

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verbatim record of the conference shall be made.

Section 355.850 Contumacious Conduct in Informal Investigative Conference

If any person becomes disruptive or abusive during an informal investigative conference, the Hearing Officer may exclude the person from the proceeding. The Hearing Officer, in his/her discretion, may take any of the following actions: continue the conference without the participation of the excluded individual; render a decision based upon the evidence previously presented; dismiss the complaint, or strike the subject individual's response.

Section 355.860 Telephone Conference

- a) The Department does not routinely hold informal investigative conferences by telephone. Written requests to participate by telephone must be received by the Department's Chicago office no later than 7 days prior to the conference date. The request shall be prominently marked "REQUEST FOR TELEPHONE CONFERENCE" on both the letter and the envelope. Such request shall be typewritten or clearly written and shall contain a compelling reason why the party needs to participate by telephone and the name, address and telephone number of the person to be contacted.

- b) A party shall not consider its request granted unless the participant receives notice of the Department's approval prior to the hearing date by telephone or letter.

Section 355.870 Department Request for Subpoenas and Search Warrants

- a) The Department may request the Director to issue an administrative subpoena to compel the attendance of a witness and/or the production of documents. The Department may request the issuance of an administrative subpoena when it determines that the information to be produced by a subpoena is necessary and relevant to the Department's investigation, and the Department is unable to obtain the information by conference, conciliation, or persuasion. Service may be made by personal delivery or by certified mail, return receipt requested. The Department may request the Director to make a written complaint under oath or affirmation petitioning a court to issue a search warrant for the seizure of personnel records.
- b) The Department may request for a search warrant shall specify:

- 1) The Department's request for a search warrant shall specify:
 - A) that only personnel records as defined by the Act and this Part are to be seized, and
 - B) the facts and circumstances demonstrating that the personnel records to be seized are necessary and relevant to the Department's investigation, and the Department is unable to obtain the records by any other reasonable means, including by subpoena, if the search warrant does not issue, and
 - C) the particular place or location of the records.

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- 2) The Director's petition for a search warrant may ask the court to identify those persons authorized to execute the search warrant and further may ask the court to provide the assistance of peace officers.

Section 355.880 Request for Review

Request for review of a Hearing Officer's determination must be made in writing to the Department's Chicago office, within 15 days after the decision. The request shall be prominently marked "REQUEST FOR REVIEW" on both the letter and the envelope. The request must set forth the reasons why the party believes the Hearing Officer misconstrued the evidence or misapplied the law to the facts, and any newly discovered evidence which the party could not have discovered by the informal investigative conference date or, if applicable, why the party failed to attend the conference.

Section 355.890 Private Cause of Action

A Complainant may file a private legal action under Section 12(c) of the Act upon notice from the Department that it will take no further action on the complaint and grants the complainant leave to pursue other civil remedies.

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- 1) * Heading of the Part: Travel for Legislative Employees
2) Code Citation: 80 Ill. Adm. Code 2850

3) Section Numbers: Proposed Action:

2850.110	Repeal
2850.120	Repeal
2850.210	Repeal
2850.220	Repeal
2850.310	Repeal
2850.320	Repeal
2850.410	Repeal
2850.420	Repeal
2850.430	Repeal
2850.510	Repeal
2850.520	Repeal
2850.530	Repeal
2850.540	Repeal
2850.550	Repeal
2850.560	Repeal
2850.570	Repeal
2850.610	Repeal
2850.620	Repeal
2850.710	Repeal
2850.720	Repeal
2850.730	Repeal
2850.740	Repeal
2850.750	Repeal
2850.760	Repeal
2850.770	Repeal
2850.780	Repeal
2850.810	Repeal
2850.820	Repeal
2850.830	Repeal
2850.840	Repeal
2850.910	Repeal
2850.920	Repeal
2850.930	Repeal
2850.940	Repeal
2850.950	Repeal
2850.1010	Repeal
2850.1020	Repeal
2850.1110	Repeal
2850.1120	Repeal
2850.1130	Repeal
2850.1210	Repeal
2850.1220	Repeal
2850.1230	Repeal

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2850. APPENDIX A Repeal

4) Statutory Authority: Implementing and authorized by Section 12-2 of the State Finance Act [30 ILCS 105/12-2].

5) A Complete Description of the Subjects and Issues Involved: Section 12-5 of the State Finance Act, which authorized the Legislative Travel Control Board to promulgate travel regulations, was repealed by Section 2 of P.A. 84-345, effective January 1, 1986. Legislative employees are currently subject to regulations adopted by the Travel Regulation Council pursuant to Section 12-2 of the State Finance Act and Board policies promulgated thereunder.

6) Will this rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does the proposed repealer contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create, enlarge or modify a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of this notice to:

Tom Erickson
Office of the Auditor General
1155 Park Plaza
740 E. Ash St.
Springfield IL 62703
phone: (217) 782-1009
TDD: (217) 524-4646
fax: (217) 785-8222

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was

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not included on either of the 2 most recent agendas because: The Legislative Travel Control Board decided to repeal these regulations at its meeting held on January 17, 1996.

The full text of the proposed repealer begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE I: GENERAL TRAVEL CONTROL

CHAPTER II: LEGISLATIVE TRAVEL CONTROL BOARD

PART 2850

TRAVEL FOR LEGISLATIVE EMPLOYEES (REPEALED)

SUBPART A: SCOPE AND APPLICABILITY AND DEFINITIONS

Section
2850.110
2850.120

Scope and Applicability
Definitions

SUBPART B: BASIC POLICIES AND RESPONSIBILITIES

Section
2850.210
2850.220

Basic Policies
Responsibilities of Agency Heads

SUBPART C: GENERAL RESTRICTIONS

Section
2850.310
2850.320

Meals at Headquarters
Travel Expense from Residence to Headquarters

SUBPART D: AUTHORITY TO TRAVEL

Section
2850.410
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In-State Travel
Out-of-State Travel
Control of Travel Funds

SUBPART E: TRANSPORTATION AND ALLOWABLE EXPENSE

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2850.510
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2850.570

Authorized Transportation
Privately-Owned Vehicles and Aircraft
State-Owned Automobiles and Aircraft
Rail Travel
Air Travel
Rental Conveyance
Taxicabs

SUBPART F: LODGING ALLOWANCE

Section
2850.610
2850.620

Actual Lodging Costs
At Conference or Convention Hotel

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SUBPART G: MEALS/PER DIEM ALLOWANCE

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2850.710
2850.720
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2850.740
2850.750
2850.760
2850.770
2850.780

Meal Allowance
For Other Persons
Meals at Conference
Staff Conferences
Per Diem
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Holidays or Weekends During Travel
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SUBPART H: OTHER EXPENSES

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2850.810
2850.820
2850.830
2850.840

Reimbursable
Non Reimbursable
Entertainment and Promotion
Postage Stamps

SUBPART I: TRAVEL VOUCHER

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2850.950

Memorandum of Expenditures
Preparation of Travel Vouchers
Items Billed Directly
Approval of Travel Vouchers
Frequency of Submission

SUBPART J: EXCEPTIONS

Section
2850.1010
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Exceptions
Vouchers Containing Exceptions

SUBPART K: OUT-OF-STATE TRAVEL

Section
2850.1110
2850.1120
2850.1130

Preparation of Requests
Restrictions on Use of State Cars
Reimbursement

SUBPART L: NOTES

Section
2850.1210
2850.1220
2850.1230

Advisory Boards and Committees
Contractual Personnel
Private Clubs

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specified location, the limits of which are no broader than the corporate limits of the city or town in which the officer or employee is stationed. It may be a defined geographical area or a particular building.

- 2) Requirements:
 - A) Agency heads shall designate official headquarters for each of their employees. Generally, the official headquarters of an individual is the place where official duties will require that person to spend most working time during the coming fiscal year. In the case of an individual who is required by official duties to travel almost every working day, the official headquarters may be the place of residence.
 - B) The official headquarters for heads of legislative agencies shall be Springfield unless otherwise approved by the Legislative Travel Control Board. (Approval of an official headquarters in a place other than Springfield can be requested in writing to the Chairman of the Board. Approval is based on whether or not such exception will promote the efficient and economical conduct of the agency head's official duties.)
 - C) The official headquarters for members of boards and commissions that convene on a periodic or irregular basis shall be the residences of the members.
 - D) Individuals to whom this Part applies are not on a travel status and are not entitled to reimbursement of living expenses while at their official headquarters.

- c) Legislative Travel Control Board

The Legislative Travel Control Board consists of the following members serving as ex-officio: the Auditor General as chairman, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. Any member may designate a deputy, who may be an assistant or other subordinate, to serve in his or her place at any or all meetings of the board. Such designations shall be in writing and shall be directed to the chairman of the board. The board shall meet at least once each quarter. No member shall receive any additional compensation for service as a member.
- d) Out-of-State Travel

Fifty miles beyond the boundaries of Illinois is considered out-of-State travel as it applies to this Part.
- e) The Chicago Metropolitan Area

The counties of Cook, Will, DuPage, Kane, McHenry, and Lake are considered here "The Chicago Metropolitan Area."

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

SUBPART B: BASIC POLICIES AND RESPONSIBILITIES

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APPENDIX A Reimbursement Schedule

AUTHORITY: Implementing and authorized by Section 12-2 of the State Finance Act [30 ILCS 105/12-2].

SOURCE: Emergency rules filed December 23, 1975, effective January 1, 1976; emergency amendments at 2 Ill. Reg. 8, p. 90, effective February 16, 1978; amended at 2 Ill. Reg. 33, p. 42, effective August 3, 1978; amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980; amended at 5 Ill. Reg. 8525, effective September 1, 1981; codified at 8 Ill. Reg. 3007; amended at 8 Ill. Reg. 12238, effective July 1, 1984; Part repealed at 20 Ill. Reg. _____, effective _____.

SUBPART A: SCOPE AND APPLICABILITY AND DEFINITIONS

Section 2850.110 Scope and Applicability

This regulation is a promulgation pursuant to the authority granted by Section 12-5 of "An Act in relation to State Finance," (Ill. Rev. Stat. 1981, ch. 127, par. 148-5), as now or hereafter amended, to implement the requirements of Section 12-5 that the Board promulgate and publish travel regulations applicable to employees of the General Assembly, Legislative Boards and Commissions, the office of the Auditor General, and all legislative agencies. It is the interpretation of the Legislative Travel Control Board that Section 12-5 restricts the application of any travel regulation promulgated by the Legislative Travel Control Board to employees of the entities listed only.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.120 Definitions

As they apply to this Part:

- a) Agency Head
 - 1) Means the person responsible for approving the payment of travel expenses and whose signature is required before the payment for travel expenses will be made by the Comptroller;
 - 2) Except, in the case of:
 - A) The House of Representatives, Agency Head means:
 - i) The Speaker, for the leadership staff and general operations; and
 - ii) The Minority Leader, for the minority staff.
 - B) The Senate, Agency Head means:
 - i) The President, for the leadership staff and general operations; and
 - ii) The Minority Leader, for the minority staff.

b) Headquarters

- 1) The official headquarters of a State Officer or State employee is that person's designated post of duty of official station in a

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Section 2850.210 Basic Policies

a) Basic Policy

1) The basic travel policy of the State of Illinois is that travel should always be arranged to serve the best interest of the State and be within the limitations of this Part. The best interest of the State is served by that combination of expense, time, and convenience which proves to be the most economical overall.

2) Reimbursement for travel expense will be limited to actual expenses which are reasonable and necessary, but not to exceed the limitations set forth in this Part.

b) Agency Policies

The rates for reimbursements set forth in this Part represent the maximums permitted. The head of an agency may provide for lesser reimbursement amounts if he or she determines that lesser amounts are reasonable and in the best interest of the State of Illinois. Agency heads may otherwise establish more restrictive policies if they determine that such are warranted in the conduct of the agency's business.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.220 Responsibilities of Agency Heads

a)

1) The agency head is responsible for the execution of this Part by his or her agency as well as other policies and guidelines regarding travel that may be promulgated and published by the Legislative Travel Control Board.

2) The agency head shall designate official headquarters for each employee (See Section 2850.120). Each State agency shall file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time. Such reports shall be filed with the Legislative Audit Commission on the first working day of June and of December each year. The report shall list, for each such officer or employee, the place designated as official headquarters and the reason for that designation. Agencies with no officers or employees in this status shall file negative reports. The Legislative Audit Commission shall comment on all such reports in its annual reports to the General Assembly.

b) Traveler -- Certificate Required by Statute

1) Each person submitting a travel voucher must sign a certificate as required by the following provisions of Ill. Rev. Stat. 1981, ch. 127, par. 148, as now or hereafter amended:

"Each voucher for traveling expenses shall be itemized and shall be accompanied by a certificate signed by the

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person incurring such expense, certifying that the amount is correct and just; that the detailed items charged are taken and verified from a memorandum kept by such person; that the amounts charged for subsistence were actually paid; that the expenses were occasioned by official business or unavoidable delays requiring the stay of such person at hotels for the time specified; that the journey was performed with all practicable dispatch by the shortest route usually traveled in the customary reasonable manner; and that such person has not been furnished with transportation or money in lieu thereof; for any part of the journey therein charged for."

(This certification is printed directly above Traveler's signature on State Travel Vouchers.)

2) Responsibility for Accuracy
Individuals submitting travel vouchers are personally responsible for their accuracy. Any fraudulent misrepresentation shall be cause for disciplinary action.

3) Auditor General and Legislative Audit Commission

A report of travel reimbursement claims reviewed by the Legislative Travel Control Board shall be submitted by the Auditor General to the Legislative Audit Commission at least once each quarter and that Commission shall comment on all such reports in its annual reports to the General Assembly.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

SUBPART C: GENERAL RESTRICTIONS

Section 2850.310 Meals at Headquarters

Individuals under the jurisdiction of this Travel Control Board are not entitled to reimbursement for meal expenses while at their official headquarters. If in exceptional cases an agency head believes it necessary for a meal to be purchased for any persons who are not State employees, the reimbursement for the meal cost shall be limited to the amounts specified in this Part for meals while on travel status. Reimbursement up to the maximum meal allowance will be permitted for meal expenses incurred while attending a staff conference or seminar at an individual's headquarters if the voucher is personally signed by the head of the individual's agency.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.320 Travel Expense from Residence to Headquarters

a) Reimbursement of expenses between the residence and the official headquarters of any individual subject to this Part shall not be

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SUBPART E: TRANSPORTATION AND ALLOWABLE EXPENSE

Section 2850.510 Authorized Transportation

- a) Means of Transportation
Modes of transportation authorized for official travel include automobiles, railroads, airlines, buses, taxicabs, and other usual means of conveyance. Transportation may include fares and such expenses incidental to transportation as baggage transfer, official telephone messages in connection with items classed as transportation, and reasonable tips.
- b) To Temporary Duty Station
1) Transportation between place of lodging and place of business at a temporary duty station shall be allowed as a transportation expense.
- 2) Where the nature and location of the work at a temporary duty station are such that suitable meals cannot be procured there, the expenses of daily travel required to procure meals at the nearest available place shall be considered necessary transportation. A statement of the necessity for such daily travel shall accompany the travel voucher.

- c) By Most Direct Route
1) All travel shall be by the most direct route. Travel by other routes may be allowed when the official necessity therefor is satisfactorily established.

- 2) In case an individual for his or her own convenience travels by an indirect route or interrupts travel by direct route, that individual shall bear the extra expense. Reimbursement for expenses shall be based on such charges as would have been incurred by the most direct and economical route. (See Section 2850.780.)

- 3) Approval of travel routes other than the most direct is an option open to the head of an agency and should be based on the purpose and circumstances for the traveling.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.520 Privately-Owned Vehicles and Aircraft

- a) Use
The use of privately-owned motor vehicles and aircraft for State business is not permitted except when such use is necessary or desirable due to a lack of other convenient means of transportation or is otherwise advantageous to the State. Employees using such transportation must be properly licensed and insured as required by State law (Ill. Rev. Stat. 1981, ch. 95 1/2, par. 10-101(b)).
- b) Authorization
Authorization for use of personal car or aircraft must be obtained

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- allowed.
- b) No travel expenses shall be allowed individuals either at their official headquarters or at their place of abode from which they commute daily to their official headquarters. (Except for Section 2850.520(c))

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

SUBPART D: AUTHORITY TO TRAVEL

Section 2850.410 In-State Travel

All travel of any individual subject to this part shall be authorized and approved by the head of the agency or his representative prior to the beginning of the travel.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.420 Out-of-State Travel

No reimbursement for travel outside the State shall be allowed unless written approval by the agency head is obtained in advance. Requests for approval of out-of-State travel shall be submitted to the agency head on a "Request for Out-of-State Travel" form. No travel voucher will be approved for reimbursement of out-of-State travel costs unless accompanied by an approved "Request for Out-of-State Travel." In cases of emergency where advance approval could not be obtained, a memorandum stating the circumstances and approved by the agency head or his or her representative shall be attached to the travel voucher in lieu of the approved "Request for Out-of-State Travel" form (available from the Department of Central Management Services). If trips not exceeding 50 miles beyond the boundaries of Illinois are made into neighboring states, no advance written approval is required.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.430 Control of Travel Funds

- a) Each agency shall develop a system for the prior authorization and control of travel sufficient to prevent obligation of funds exceeding appropriation, apportionment, and allotment limitations and to hold travel to the minimum required for the efficient and economical conduct of the State's business and to provide for compliance with this part.
- b) Agencies should organize their travel control procedures so that a supervisor approving travel of employees is personally aware of the purpose and need for travel.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

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from agency head or his or her representative prior to travel.

- c) Allowance
 - 1) An allowance not to exceed the rate shown in the reimbursement schedule (Appendix A) shall be made for privately owned vehicles or aircraft used in the conduct of official business outside official headquarters. Mileage expenses and parking fees associated with State business while at headquarters which are in excess of normal commuting expenses are reimbursable.
 - 2) Distance between points traveled will be as shown on an official State of Illinois map. Intra-city mileage should be shown as such. Excessive mileage must be explained on travel vouchers.
- d) Alternative Means of Travel
 - When the use of public transportation is a reasonable alternative, the mileage payment shall not exceed the cost of its use. A reasonable alternative exists when the cost of travel, taking into account both transportation, time and per diem expenses, would be less if public transportation were used.
- e) Mileage Payable to Individual
 - Mileage will be payable to only one of two or more individuals traveling in the same vehicle. The names of the individuals and their respective employing agencies shall be stated on the travel vouchers.
- f) Parking Fees
 - Reimbursement for the cost of automobile parking fees and bridge, road and tunnel tolls shall be allowed. The fee for parking an automobile at a common carrier terminal, or other parking area, while the traveler is away from his official headquarters, shall be allowed only to the extent that the fee, plus the allowable mileage reimbursement to and from the terminal or other parking area, does not exceed the estimated cost for use of a limousine or taxicab to and from the terminal.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.530 State-Owned Automobiles and Aircraft

- a) Use
 - State-owned automobiles shall be used whenever possible. The use of State-owned automobiles is governed by the vehicle rules of the Department of Central Management Services (see also Ill. Rev. Stat. 1981, ch. 127, par. 63b13.15). Specific instructions covering service and repairs of these vehicles are to be found in the glove compartment of each auto.
- b) General Instructions
 - Gasoline and oil purchases for State owned automobiles shall be made if possible at State garages, by use of the State card assigned to the vehicle or at filling stations honoring such cards. No amounts for cash purchases of gasoline or oil for State cars shall be allowed without proper justification on the travel voucher showing that an

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emergency existed making the purchase necessary. Repairs to State-owned automobiles shall be made if possible at State garages.

- c) Parking
 - The actual cost of parking a State-owned automobile used on official business, shall be allowed if reasonable in amount and explained on the travel voucher. In cities where Central Management Services' motor pools are established, State cars are to be parked at pool locations.
- d) State-owned aircraft may be used when it is the form of transportation most advantageous to the State. An explanation of the justification for such use must accompany the voucher.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.540 Rail Travel

The actual cost of Amtrak fare shall be allowed if not in excess of the cost of standard sleeping room accommodations for overnight travel or Amtrak coach accommodations for daytime travel, or in excess of the corresponding coach class air fare.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.550 Air Travel

The actual cost of coach class travel by air shall be allowed if not in excess of the corresponding Amtrak coach and overnight accommodation fare, or if either time requirements make air travel necessary or circumstances make air travel cost beneficial.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.560 Rental Conveyance

The use of privately-owned rented automobiles, aircraft, boats, or other such conveyance will be kept at an absolute minimum and then rented only in an emergency. Every effort shall be made to obtain other suitable transportation rather than to use privately-owned rented vehicles. Where emergencies require the use of a rented vehicle, the most economical vehicle available and suitable for the conduct of the State's business shall be obtained. In these circumstances, the actual cost may be charged and a full explanation for the use of a rented vehicle will be provided with the travel voucher. Personal accident insurance is not a reimbursable expense under this part. (NOTE: Charges for rented vehicles away from an employee's headquarters and in connection with other travel may be charged to Travel and reimbursed on travel vouchers; other charges for rented or leased vehicles should be submitted on commercial vouchers and charged to Contractual Services.)

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(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.570 Taxicabs

Reimbursement for taxicab fares incurred in the efficient and economical pursuit of the State's business will be allowed. All taxicab fares in excess of \$10.00 shall be accompanied by a receipt. When transportation by airport limousine is available, more economical, and convenient it shall be used in lieu of a taxi.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

SUBPART F: LODGING ALLOWANCE

Section 2850.610 Actual Lodging Costs

- a) Actual lodging costs excluding tips and room service, are allowed not to exceed the rates shown in the Reimbursement Schedule (Appendix A).
- b) Receipts are to be submitted with travel vouchers to support expenses claimed. Travelers are to stay in the lowest priced room available. In the event the cost of lodging exceeds the most economical rate normally offered by the hotel or motel, the traveler must submit a written justification for the higher rate paid.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.620 At Conference or Convention Hotel

When an individual attends a conference or convention in the conduct of official State business and it is necessary to obtain overnight accommodations at the hotel or motel where the conference or convention is being held, he or she may be reimbursed for the room cost in an amount greater than the maximum room allowance provided for in this Part if he or she stays in the lowest priced room available at the hotel or motel where the conference or convention is being held or at another nearby hotel or if the conference or convention officials arranged for the accommodations. However, the traveler must assert in writing that he or she did stay at the hotel or motel where the conference or convention was held or at another nearby hotel or where the conference or convention officials arranged for the accommodations. This statement must accompany the voucher when it is submitted for payment.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

SUBPART G: MEALS/PER DIEM ALLOWANCE

Section 2850.710 Meal Allowance

- a) For travel of less than 18 hours during the same calendar day or when

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a night's lodging is not required, the actual cost of meals is allowed but not to exceed the rates indicated on the Reimbursement Schedule (Appendix A).

AGENCY NOTE: As stated in Section 2850.210 the head of an agency has the discretion of setting lower maximum rates.)

- b) It is not necessary for travelers to submit receipts with travel vouchers to support this Per Meal Allowance for food.
- c) The cost of meal tips to waiters is included in the meal allowance and shall not be allowed as a separate expense.
- d) For an employee to receive reimbursement for breakfast, he or she must be on travel status and leave headquarters or residence (if reporting directly to a destination other than headquarters) prior to 7:00 a.m. For employee to receive reimbursement for dinner, he or she must be on travel status and arrive back at headquarters or residence (if traveling directly from a destination other than headquarters) after 7:00 p.m.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.720 For Other Persons

The actual cost of meals for other persons incurred in connection with official State business shall be allowed in reasonable amounts up to the maximum per meal allowance provided in this Part. It shall be indicated in detail on the travel voucher why and for whom the expense was incurred.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.730 Meals at Conference

When the cost of meals for approved seminars or official meetings is an integral part of the registration fee, the traveler shall deduct the actual value of the meal or the amount of the applicable meal allowance shown in the Reimbursement Schedule (Appendix A), whichever is less, from the per diem or meal allowance.

AGENCY NOTE: Registration fees exceeding \$50.00 in amount are not properly reimbursed on travel vouchers but should be charged to contractual services.)

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.740 Staff Conferences

The expenses of a conference of agency staff from several locations throughout the State must be itemized in detail on the appropriate voucher, (i.e., travel, contractual), said itemization to include the number of people attending, the cost of each meal, and the cost of any lodging. Any expenses incurred for liquor or for entertainment shall not be paid by the State.

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(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.750 Per Diem**a) Per Diem Allowance**

The per diem allowance provided in the Reimbursement Schedule covers the cost of meals and incidental travel expenses. It is allowed only when the travel period is overnight or 18 hours or more.

b) Computing Per Diem

1) In computing the per diem allowance for continuous travel of more than 18 hours or when a night's lodging is required, midnight to midnight will be the unit.

2) For fractional parts of a day at the commencement or ending of such continuous travel constituting a travel period, one-fourth of the allowance for a calendar day will be allowed for each period of 6 hours or fraction thereof. Such 6 hour periods commence at Midnight, 6:00 A.M., noon and 6:00 P.M.

c) Examples:

1)

A) Mr. Jones leaves Springfield at 8:30 a.m. for Chicago after eating breakfast at home and returns to Springfield the same day at 9:30 p.m. having had lunch and dinner in Chicago. He has neither been gone more than 18 hours nor stayed overnight. He is therefore entitled only to meals.

B) Mr. Jones leaves Springfield at 6:30 p.m. to go to Chicago to make an evening speech. He returns to Springfield at 8:30 a.m. the next morning. He has not been gone 18 hours, but he has stayed overnight and therefore qualifies for per diem. He is entitled to reimbursement for three quarters of the per diem, (one quarter the first day, two quarters the second), plus the actual cost of hotel accommodations up to the maximum rate shown in the Reimbursement Schedule (Appendix A).

2) Mr. Jones leaves Springfield at 1:30 p.m. to go to Vienna and returns the next day at 9:30 p.m. He may claim 1 1/2 days per diem (6 quarters) plus the actual cost of hotel accommodations up to the maximum rate shown in the Reimbursement Schedule.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.760 Sick Leave During Travel

The regular per diem allowance is payable to an employee who is on sick leave while in a travel status for the period of the sick leave. No per diem allowance is payable to an employee who is on vacation leave while on travel status for the period of the vacation.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

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Section 2850.770 Holidays or Weekends During Travel

When an employee on his or her own initiative chooses to continue to remain away from his or her official station on travel status over a holiday or weekend, the employee shall be reimbursed for the lesser of:

- a) lodging and per diem allowance, or
- b) the cost of a round trip back to the official headquarters, including the cost of transportation, per diem during travel, and other allowable costs.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.780 Indirect or Interrupted Travel

a) As noted in Section 2850.510(c), if an individual travels by an indirect route or interrupts travel for his or her own convenience, the individual shall bear any extra expense. Reimbursement for expenses shall be based upon such charges as would have been incurred by the most direct and economical route. Advance approval for indirect or interrupted travel shall be obtained from the agency head or his or her designated representative.

b) For example, if an employee travels to a recognized conference on State business and extends his or her stay for vacation, the per diem, meal, and lodging expense reimbursement will cease at the end of the conference and not resume until the return travel to headquarters begins from the conference site.

c) If additional transportation beyond the conference site is incurred, the total reimbursement to the traveler will be limited to the amount which would have been expended if he or she had returned directly to headquarters immediately after the conference concluded.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

SUBPART H: OTHER EXPENSES

Section 2850.810 Reimbursable

a) The actual cost of tips to porters, bell boys, etc., shall be allowed if reasonable in amount and explained on the travel voucher.

b) The cost of transportation by bus, streetcar, elevated, taxi, and similar means shall be allowed if reasonable in amount and explained on the travel voucher. In the case of taxi fares in excess of \$10, receipts shall accompany the travel voucher.

c) Telephone calls and telegrams to the State Offices shall be collect, except in those cases where the Springfield State Switchboard may be reached by dialing special numbers from various cities within the State. The cost of other calls and telegrams shall be allowed if justified on the Travel Voucher. (Includes calls of 3 minutes or less

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to announce safe arrival, delay or change in plans.)

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.820 Non Reimbursable

- a) Reimbursement may not be given for laundry and dry cleaning, entertainment, or alcoholic beverages.
- b) The actual costs of meal tips to waiters are included in the meal allowance and shall not be shown as a separate item.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.830 Entertainment and Promotion

Legislative agencies shall not spend State funds for entertainment, community relations, or public relations not directly related to the objectives of the agency. This prohibition includes, but is not limited to athletic events, cultural events, conventions, and any other such activity not conducted in State facilities.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.840 Postage Stamps

Postage stamps required for official business while traveling shall be obtained from the traveler's agency.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

SUBPART I: TRAVEL VOUCHER

Section 2850.910 Memorandum of Expenditures

A memorandum of all travel expenditures properly chargeable to the State shall be kept by individuals subject to this Part. The information thus accumulated shall be available for the proper preparation of travel vouchers.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.920 Preparation of Travel Vouchers

- a) Authorized Form

All claims for the reimbursement of traveling expenses shall be submitted on Travel Voucher (Form C-10) and shall be itemized in accordance with this Part.

- b) Purpose of Travel

The purpose of the travel must be explained clearly, either on the

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face of the voucher or with attachment to the voucher. Acronyms and technical jargon shall not be used in the explanations. Attendance at a conference or convention should be explained in terms of its relation to the traveler's and the agency's function.

- c) Time of Departure and Arrival

The date and hour of departure from and arrival at the place at which official travel begins and ends, and points at which temporary duty is performed shall be shown on the travel voucher where such arrival or departure affects the allowance or other travel expenses. Other points visited shall be shown on the voucher; time of arrival and departure need not be shown.

- d) Privately-Owned Vehicles

When a privately-owned vehicle is used, the travel voucher shall show the dates and points of travel, mileage, and mode of transportation. If the distance traveled between any given points is greater than the usual route between these points shown on the mileage chart, the reason for the greater distance shall be stated.

- e) State-Owned Vehicles

When a State-owned vehicle is used, it shall be indicated on the travel voucher; the license number shall be shown in the space provided.

- f) Receipts Required

1) Travel vouchers shall be supported by receipts in all instances for railroad and airplane transportation, for lodging, and all other items in excess individually of \$10.00.

2) In the case of railroad travel, the pullman or parlor car stub (if first class ticket used), shall be attached to the travel voucher. For air travel, the receipted copy of the tickets shall be attached. For hotel accommodations, the receipted bill on the statement form regularly used by the hotel shall be attached.

For lodging other than hotels, a receipted bill showing the address of the establishment shall be attached. For car storage or repairs, receipts shall be attached.

- g) Other Attachments Required

All written approvals for exception to this Part; such as, Meals at headquarters (Section 2850.310), and Out-of-State travel request (Subpart K of this Part) shall be attached.

- h) Number of Copies and Signatures

An extra voucher copy shall be prepared in those cases which involve an exception to this Part. All copies of the voucher shall be signed by the individual who has incurred the expense and his or her supervisor. The individual's name should also be typewritten or printed below the signature line. The signature is a certification as required by statute. (See Section 2850.220(b))

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.930 Items Billed Directly

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No requests for reimbursement shall be made for items of expenditure in connection with travel which are billed directly to the State (for example, by use of a State credit card). However, such charges shall be itemized on the employee's travel voucher along with all reimbursable items. In all such cases receipts or copies thereof shall also be attached. Such expenses shall not be in excess of the maximum allowed. Meal and incidental expenses billed directly to the State shall be deducted from the per diem allowance. All columns of travel vouchers are to be totaled and cross-footed. The direct billed total will then be deducted from the cross-footed total with the balance being the amount to be reimbursed to the employee.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.940 Approval of Travel Vouchers

- a) Each voucher shall be first approved by the individual's immediate supervisor who shall certify that the travel shown was required by official duties.
- b) The travel voucher shall then be approved by the head of the individual's agency or a designated representative, who shall sign the original of the voucher.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.950 Frequency of Submission

Travel vouchers will be submitted within 14 days after the end of the month in which travel expense was incurred. Travel vouchers may be submitted earlier and more often, but the Board encourages submission of one voucher per month per individual when expenses are \$50.00 or less because of the cost to the Comptroller of processing vouchers.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

SUBPART J: EXCEPTIONS

Section 2850.1010 Exceptions

- a) In accordance with Section 12-6 of "An Act in relation to State Finance" (Ill. Rev. Stat. 1981, ch. 127, par. 148-6), as now or hereafter amended:

Each voucher submitted by a person subject to the regulations promulgated under Section 12-5 for travel reimbursement involving an exception to such regulations shall be reviewed by the Legislative Travel Control Board. Amounts disbursed for travel reimbursement claims which are disapproved by the board shall be refunded to the state and deposited in the fund from which payment was made.

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- b) An information copy of each voucher covering a claim by a person subject to this part involving an exception to the general restrictions of this part together with an explanation and justification of the exception, shall be filed by the employee's agency with the Auditor General, who shall submit these vouchers, or a report thereof, to the Travel Control Board for approval. The information copy of the voucher should be filed with the Auditor General at the same time that the travel voucher is submitted for reimbursement. The voucher submitted for reimbursement or a referenced attachment should explain the reasons for the approval of the exception. All copies of travel vouchers involving exceptions should bear a statement that a copy of the voucher has been filed with the Auditor General.

- c) The employee's agency shall be notified in writing as to the disposition of the Board. Amounts disbursed for travel reimbursement claims which are disapproved by the Board shall be refunded to the State and deposited in the fund from which payment was made. Proof of this deposit shall be forwarded to the Auditor General by the agency. A copy of the letter notifying an agency of the Board's disapproval of a voucher is placed in the Auditor General's Audit Assignment files and checked in the next compliance audit of the agency involved.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.1020 Vouchers Containing Exceptions

Vouchers containing exceptions are approved or disapproved based upon the reasonableness and necessity of the exception under the given circumstances in relation to the applicable travel rules.

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

SUBPART K: OUT-OF-STATE TRAVEL

Section 2850.1110 Preparation of Requests

- a) Advance Written Approval

No reimbursement for travel outside the State shall be allowed unless written approval is obtained in advance from the Agency head or his or her delegate except in cases of emergency for which satisfactory explanation shall be given, or as provided by subsection (e) of this Section.

- b) Request

All requests for approval of travel outside the State shall be prepared on the Form Request for Out-of-State Travel.

- c) Number of Copies

The request shall be prepared in triplicate, either typewritten or in ink.

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- d) How Signed
The original and all copies shall be signed by the individual initiating the request and by the head of the agency or a delegate.
- e) Exceptions
If an employee makes a trip to a nearby State in the conduct of official duties, reimbursement for such travel, not to exceed 50 miles beyond the boundaries of Illinois, will be allowed without advance approval.
- f) Detailed Information
The necessity for the out-of-state travel shall be explained in sufficient detail that proper evaluation can be made regarding approval. The estimated cost shall be reasonable to accomplish the trip, and the date of departure, the destination, and the number of days necessary to accomplish the purpose of the trip shall be shown.
- g) Responsibility for Accuracy
Individuals submitting requests for out-of-state travel are personally responsible for their accuracy. Any fraudulent misrepresentation shall be cause for disciplinary action.
- (Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.1120 Restrictions on Use of State Cars

Ordinarily, State-owned cars shall not be used for out-of-state travel. The use of such cars to make surveys, or to carry out duties of an official nature shall be approved by the Agency head in advance of the trip, except in cases of emergency, for which satisfactory explanation shall be given.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

Section 2850.1130 Reimbursement

- a) Travel Expenses
Individuals shall be reimbursed only for travel expenses actually incurred and not to exceed the amount authorized.
- b) A copy of authorized "Out-of-State Requests" shall accompany the travel voucher for reimbursement.

(Source: Amended at 3 Ill. Reg. 43, p. 179, effective January 1, 1980)

SUBPART L: NOTES

Section 2850.1210 Advisory Boards and Committees

Any person who is appointed by an agency head to a nonstatutory Advisory Board, Committee or the like, shall be reimbursed for travel and living expenses in accordance with the restrictions contained in this Part. However, persons who are not State employees but are members of boards and commissions serving with

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legislators and judges shall be reimbursed for travel and living expenses at the same rates established by the boards and commissions for legislators and judges.

(Source: Former Section 2850.1210 repealed, new Section 2850.1210 renumbered from Section 2850.1220 at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.1220 Contractual Personnel

Contractual Services personnel properly paid from contractual services rather than personal services do not fit the statutory definition of State employees and are not subject to this Part. Travel reimbursement rates for such personnel should be set as a part of their contractual agreement with the agency involved.

(Source: Former Section 2850.1220 renumbered to Section 2850.1210, new Section 2850.1220 renumbered from Section 2850.1230 at 8 Ill. Reg. 12238, effective July 1, 1984)

Section 2850.1230 Private Clubs

A legislative agency shall not pay for memberships in private clubs, whether in the name of the legislative agency or in the name of an individual officer of the legislative agency. If a State employee seeks reimbursement for valid expenses incurred in a private club, the reimbursement shall be limited to the amounts specified in this Part.

(Source: Former Section 2850.1230 renumbered to Section 2850.1220, new Section 2850.1230 renumbered from Section 2850.1240 at 8 Ill. Reg. 12238, effective July 1, 1984)

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Section 2850. APPENDIX A Reimbursement Schedule

The following rates are effective on the dates shown and will remain effective until changed by the Legislative Travel Control Board:

TYPE OF REIMBURSEMENT RATE EFFECTIVE 7/1/84

Mileage	
Automobile	\$.19 a mile
Plane	\$.19 a mile
Meal Allowance	
Breakfast	\$ 2.50
Lunch	\$ 4.00
Dinner	\$ 8.50
Per Diem	\$16.00 a day
Lodging, in State	\$35.00 plus tax
Lodging, Washington, D.C.	\$65.00 plus tax
Lodging, Other Out-of-State	\$40.00 plus tax

(Source: Amended at 8 Ill. Reg. 12238, effective July 1, 1984)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Accrediting Persons in the Practice of Medical Radiation Technology

2) Code Citation: 32 Ill. Adm. Code 401

3) Section Number: Proposed Action:
 401.30 Amendment
 401.40 Amendment
 401.120 Amendment

4) Statutory Authority: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 [420 ILCS 40/5, 6, 7 and 36].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing this amendment to correct an oversight in Department rules. There was an inconsistency between the rules and the Radiation Protection Act of 1990 regarding the degree of supervision needed for students in an approved training program. Section 401.30(c)(1) is being amended to reflect that direct supervision is required. This part will also implement a legislative mandate that added a new Section O to the Department's enabling statute relating to the suspension or revocation of any accreditation, certification or registration issued by the Department. Section 401.40 is being amended by adding a new provision that accreditation shall not be issued or renewed to any individual who has become delinquent in either the payment of child support orders or the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission. Section 401.120 is being amended to add causes for suspension and revocation in the event an individual fails to repay an educational loan, fails to meet child support orders and fails to pay a properly assessed civil penalty.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Valerie A. Puccini
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 782-6133 (TDD)
(217) 785-9880 (voice)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The Department does not believe that these amendments will impact small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: These amendments do not require any additional reporting, bookkeeping or other procedures to be in compliance with this rulemaking.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 401

ACCREDITING PERSONS IN THE PRACTICE OF MEDICAL RADIATION TECHNOLOGY

Section

401.10	Policy and Scope
401.20	Definitions
401.30	Exemptions
401.40	Application for Accreditation
401.50	Categories of Accreditation
401.60	Examination Requirements
401.70	Acceptable Examinations
401.80	Approved Program
401.90	Practice Requirement - Initial Licensure (Repealed)
401.100	Initial Issuance of Accreditation
401.110	Duration of Accreditation
401.120	Suspension and Revocation of Accreditation
401.130	Fees
401.140	Requirements for Renewal of Accreditation
401.150	Reciprocity
401.160	Additional Requirements for Radiographers Performing Mammography
401.170	Civil Penalties

APPENDIX A

Limited Diagnostic Radiography Procedures by Type of Limited Accreditation

APPENDIX B

Example Topics Directly Related to Radiologic Sciences

APPENDIX C

Minimum Training Requirements for Radiographers Performing Mammography

AUTHORITY: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 [420 ILCS 40/5, 6, 7 and 36].

SOURCE: Adopted at 7 Ill. Reg. 17318, effective January 1, 1984; emergency amendment at 8 Ill. Reg. 17584, effective September 12, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 2499, effective February 13, 1985; amended at 10 Ill. Reg. 13259, effective July 28, 1986; amended at 10 Ill. Reg. 21086, effective January 1, 1987; amended at 11 Ill. Reg. 15623, effective September 11, 1987; emergency amendment at 11 Ill. Reg. 19797, effective November 24, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 7603, effective April 18, 1988; amended at 12 Ill. Reg. 18164, effective January 1, 1989; amended at 13 Ill. Reg. 15005, effective September 11, 1989; amended at 14 Ill. Reg. 15341, effective September 4, 1990; amended at 15 Ill. Reg. 7054, effective April 29, 1991; amended 16 Ill. Reg. 9115, effective June 2, 1992; amended at 20 Ill. Reg. _____, effective _____.

Section 401.30 Exemptions

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- a) Nothing in the Act or this Part shall be construed to limit or affect in any respect, the practice of persons properly licensed under other statutes or regulations with respect to their professions.
- b) The Department shall, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of this Part as it determines are authorized by law and will not result in a hazard to public health and safety.
- c) Exemptions shall include:

- 1) A student enrolled in an approved program applicable to his/her profession who, as a part of his/her course of study, applies ionizing radiation to human beings while under the direct supervision of a licensed practitioner.
- 2) A person registered with the Department as a student-in-training in limited diagnostic radiography pursuant to Section 401.80(c) of this Part who applies ionizing radiation to human beings while under the supervision of a licensed practitioner, provided that the procedures performed shall be limited to the procedures as listed in Appendix A, applicable to the particular status condition of limited diagnostic radiography for which the student is registered. This exemption shall only apply to individuals who are registered with the Department and shall only apply for 16 months.

- 3) A person licensed to practice a treatment of human ailments by virtue of the Medical Practice Act of 1987 [225 ILCS 60] (Rev. Stat. Ch. 117, par. 440-1 et seq.), the Illinois Dental Practice Act [225 ILCS 25] (Rev. Stat. Ch. 117, par. 230-1 et seq.), or the Podiatric Medical Practice Act of 1987 [225 ILCS 100] (420 ILCS 40/5) (Rev. Stat. Ch. 117, par. 400-1 et seq.) (Section 5-of-the-Act)
- 4) A person employed as a dental assistant who performs dental radiography for a licensed dentist.

- 5) A technician, nurse or other assistant who performs radiography under the supervision of a person licensed under the Podiatric Medical Practice Act of 1987.

- 6) A person who holds Conditional Accreditation Type II issued in accordance with Section 401.100(d) of this Part during such time as that person is under the direct supervision of a licensed practitioner or medical radiation technologist who holds active status accreditation for purposes of being instructed in the use of equipment and/or procedures other than those for which the person is currently accredited.

- 7) A nurse, technician, or other assistant who, under the supervision of a person licensed under the Medical Practice Act of 1987, administers radiation to human beings, but only when such administration is performed on employees of a business at a medical facility owned and operated by that business. [420 ILCS 40/6] (Section 6-of-the-Act)

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 401.40 Application for Accreditation

- a) Any person applying to the Department for initial accreditation or renewal of accreditation shall: ~~must~~
 - 1) submit a complete and legible application form; ~~must~~
 - 2) pay the appropriate application fee in accordance with Section 401.130 of this Part; ~~and must~~
 - 3) provide evidence that he/she has met the requirements for the given category and status of accreditation which is sought.
- b) Persons applying for Active Status Accreditation shall submit evidence of registration, Board certification, or other examination as appropriate pursuant to Section 401.70 of this Part.
- c) Persons applying for accreditation in Limited Diagnostic Radiography (i.e., limited-chest, limited-extremities, limited-skull and sinuses and limited-spine) shall submit evidence that they have passed the required examinations as specified in Section 401.60 (d-g) of this Part.
- d) Persons applying for Temporary Accreditation shall submit evidence of graduation from an approved program.

- e) Fees and charges collected by the Department shall be paid into the Radiation Protection Fund. Such fees and charges shall be used to defray costs incurred in the administration of this program.

- f) Accreditation shall be valid for a specified period of time and shall entitle the individual to privileges consistent with the category and status of accreditation indicated unless the accreditation is suspended or revoked in accordance with Section 401.120 of this Part.
- g) The Department shall refuse to issue or renew accreditation to any individual if the Department has evidence that the applicant is delinquent in the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission, as set forth in 20 ILCS 2005/71.

- h) The Department shall refuse to issue or renew accreditation to any individual, after an opportunity for a hearing, if the Department has evidence that the applicant is delinquent in the payment of child support orders, as set forth in 5 ILCS 100/10-65. In cases where the delinquency has been previously determined by the Department of Public Aid, an opportunity for a hearing will not be granted.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 401.120 Suspension and Revocation of Accreditation

- a) The Department shall act to suspend or revoke an individual's accreditation for any one or a combination of the following causes:

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- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for initial accreditation or renewal of accreditation if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for accreditation under this Part;
- 2) Wilfully evading the statute or regulations pertaining to accreditation, or wilfully aiding another person in evading such statute or regulations pertaining to accreditation;
- 3) Having been convicted of a crime which is a felony under the laws of this State or conviction of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust;
- 4) Exhibiting significant or repeated incompetence in the performance of professional duties;
- 5) Having a physical or mental illness or disability which results in the individual's inability to perform professional duties with reasonable judgment, skill and safety;
- 6) Continuing to practice medical radiation technology when knowingly having a potentially serious disease, such as those listed in 77 Ill. Adm. Code 690.100, which could be transmitted to patients;
- 7) Repeatedly using alcohol, narcotics or stimulants to such an extent as to impair the performance of professional duties;
- 8) Having had a similar credential by another state or the District of Columbia suspended or revoked if the grounds for that suspension or revocation are the same or equivalent to one or more grounds for suspension or revocation as set forth herein;
- 9) Failing to repay an educational loan guaranteed by the Illinois Student Assistance Commission as provided in 20 ILCS 2005/71;
- 10) Failing to meet child support orders as provided in 5 ILCS 100/10-65;
- 11) Failing to pay a properly assessed civil penalty.

b) If, based upon any of the above grounds, the Department determines that action to suspend or revoke accreditation is warranted, the Department shall notify the individual and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200.60. An opportunity for a hearing shall be provided before the Department takes action to suspend or revoke an individual's accreditation unless the Department finds that an immediate suspension of accreditation is required to protect against immediate danger to the public health or safety (see 420 ILCS 40/38) (~~Ill. Rev. Stat. 19857-ch. 111-127-par. 22a7~~, in which case the Department shall suspend an individual's accreditation pending a hearing.

c) If the Department finds that removal of accreditation is warranted, the usual action shall be a suspension of accreditation for up to one year. The term of suspension may be reduced by the Director, upon the recommendation of the hearing officer, if the hearing officer finds,

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based upon evidence presented to him/her at a hearing, that the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions which posed an immediate threat to public health or safety or deficiencies that cannot be cured within one year, the Department shall revoke the individual's accreditation.

d) When an individual's accreditation is suspended or revoked, the individual shall surrender his/her credential to the Department until the termination of the suspension period or until reissuance of the accreditation.

e) An individual whose accreditation has been revoked may seek reinstatement of accreditation by filing a petition for reinstatement with the Department ~~which complies with the requirements of 32--Ill-Adm--Code--200-40~~. Such petition may be filed one year or more after the beginning of the revocation period. The individual shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the accreditation should be reinstated due to rehabilitation or other just cause.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Certification of Individuals to Perform Industrial Radiography
- 2) Code Citation: 32 Ill. Adm. Code 405
- 3) Section Number: Proposed Action:
- 405.30 Amendment
- 405.140 Amendment
- 4) Statutory Authority: Implementing and authorized by Section 7a of the Radiation Protection Act of 1990 [420 ILCS 40/7a].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing to amend this Part to implement a legislative mandate that added a new Section 0 to the Department's enabling statute relating to the suspension or revocation of any accreditation, certification or registration issued by the Department. Section 405.30 is being amended by adding a new provision that certification shall not be issued or renewed to any individual who has become delinquent in either the payment of child support orders or the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission. Section 405.140 is being amended to add causes for suspension and revocation in the event an individual fails to repay an educational loan, fails to meet child support orders and fails to pay a properly assessed civil penalty.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Valerie A. Puccini

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9880 (voice)
(217) 782-6133 (TDD)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The Department does not believe that these amendments will impact small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: These amendments do not require any additional reporting, bookkeeping or other procedures to be in compliance with this rulemaking.

C) Types of professional skills necessary for compliance: In order to become a certified industrial radiographer, an individual must possess knowledge and skills necessary to perform industrial radiography procedures in a manner that will not pose a threat to his/her safety or to the safety of others.

13) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the January 1996 regulatory agenda was published.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 405
CERTIFICATION OF INDIVIDUALS TO PERFORM INDUSTRIAL RADIOGRAPHY

Section	Purpose and Scope
405.10	Definitions
405.20	Application for Certification
405.30	Categories of Certification
405.40	Examination Requirements
405.50	Examinations
405.60	Approved Training Program
405.70	Experience Requirements for Certification
405.80	Requirements for Issuance of Certification
405.90	Duration of Certification
405.100	Fees
405.110	Reciprocity
405.120	Requirements for Renewal of Certification
405.130	Suspension and Revocation of Certification
405.140	Civil Penalties
405.150	Minimum Training Requirements for Industrial Radiography
APPENDIX A	Applicable to Radioactive Materials and Radiation Machines

AUTHORITY: Implementing and authorized by Section 7a of the Radiation Protection Act of 1990 (420 ILCS 40/7a).

SOURCE: Adopted at 18 Ill. Reg. 10721, effective June 23, 1994; amended at 20 Ill. Reg. _____, effective _____.

Section 405.30 Application for Certification

- a) Any individual applying to the Department for certification to perform industrial radiography shall:
 - 1) Submit a complete and legible application on a form prescribed by the Department;
 - 2) Pay the appropriate non-refundable application fee in accordance with Section 405.110 of this Part;
 - 3) Meet the examination requirements set forth in Section 405.50 of this Part or satisfy the requirements for certification based on reciprocity as set forth in Section 405.120 of this Part; and
 - 4) Provide evidence that the requirements for the given category and class for which certification is sought have been met.
- b) Any individual who seeks Provisional Certification as an industrial radiographer shall submit an application to the Department no later than September 1, 1994.

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c) The appropriate fee shall accompany the application when filing with the Department. An application shall be deemed filed on the date that it is received by the Department or on the date that it is postmarked by the United States Postal Service.

d) The Department shall refuse to issue or renew certification to any individual if the Department has evidence that the applicant is delinquent in the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission, as set forth in 20 ILCS 2005/71.

e) The Department shall refuse to issue or renew certification to any individual, after an opportunity for a hearing, if the Department has evidence that the applicant is delinquent in the payment of child support orders, as set forth in 5 ILCS 100/10-65. In cases where the delinquency has been previously determined by the Department of Public Aid, an opportunity for a hearing will not be granted.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 405.140 Suspension and Revocation of Certification

a) The Department may ~~shall~~ act to suspend or revoke an individual's certification for any one or a combination of the following causes:

- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for initial certification or renewal of certification if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for certification pursuant to this Part;
- 2) Knowingly falsifying records of employees when such falsification would impair the Department's ability to assess and evaluate the applicant's qualifications for certification pursuant to this Part;
- 3) Willfully evading the statute or regulations pertaining to certification, or willfully aiding another person in evading such statute or regulations pertaining to certification;
- 4) Having been convicted of a crime which is a felony under the laws of this State or conviction of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust;
- 5) Exhibiting significant or repeated incompetence in the performance of industrial radiography duties;
- 6) Having a physical or mental illness or disability that results in the individual's inability to perform industrial radiography duties with reasonable judgment, skill and safety;
- 7) Performing industrial radiography in such a manner that requirements of 32 Ill. Adm. Code 350 are violated resulting in a

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threat to health and safety of the individual, other workers or the public;

8) Repeatedly using alcohol, narcotics or stimulants to such an extent as to impair the performance of duties;

9) Having had a similar certification suspended or revoked if the grounds for that suspension or revocation are the same or equivalent to one or more grounds for suspension or revocation as set forth herein; **and**

10) Failure to maintain the out-of-state certification upon which certification by reciprocity was issued;

11) Failure to repay educational loans guaranteed by the Illinois Student Assistance Commission, as provided in 20 ILCS 2005/71;

12) Failure to meet child support orders, as provided in 5 ILCS 100/10-65; and

13) Failure to pay a properly assessed civil penalty.

b) If, based upon any of the above grounds, the Department determines that action to suspend or revoke certification is warranted, the Department shall notify the individual and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200.60. An opportunity for a hearing shall be provided before the Department takes action to suspend or revoke an individual's certification unless the Department finds that an immediate suspension of certification is required to protect against immediate danger to the public health or safety [420 ILCS 40/38] ~~(Section 38 of the Act)~~, in which case the Department shall suspend an individual's certification pending a hearing.

c) If the Department finds that removal of certification is warranted, the usual action shall be a suspension of certification for up to one year. The term of suspension may be reduced by the Director, upon the recommendation of the hearing officer, if the hearing officer finds, based upon evidence presented to him/her during a hearing, that the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions which posed an immediate threat to occupational or public health or safety or deficiencies that cannot be cured within one year, the Department shall revoke the individual's certification.

d) When an individual's certification is suspended or revoked, the individual shall surrender his/her certification document to the Department until the termination of the suspension period or until reissuance of the certification.

e) An individual whose certification has been revoked may seek reinstatement of certification by filing with the Department a petition for reinstatement ~~which complies with the requirements of 32 Ill. Adm. Code 200.40~~. Such petition may be filed one year or more after the beginning of the revocation period. The individual shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the certification should

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be reinstated due to rehabilitation or other just cause.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Registration of Radon Detection and Mitigation Services

2) Code Citation: 32 Ill. Adm. Code 420

3) Section Number:
420.50
420.70
Proposed Action:
Amendment
Amendment

4) Statutory Authority: Implementing and authorized by the Radon Testing Act [420 ILCS 45].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing to amend this Part to implement a legislative mandate that added a new Section 0 to the Department's enabling statute relating to the suspension or revocation of any accreditation, certification or registration issued by the Department. Section 420.50 is being amended by adding a new provision that registration shall not be issued or renewed to any individual who has become delinquent in either the payment of child support orders or the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission. Section 420.70 is being amended to add causes for suspension and revocation in the event an individual fails to repay an education loan or fails to meet child support orders.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Valerie A. Puccini
Staff Attorney

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9880 (voice)
(217) 782-6133 (TDD)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The Department does not believe that these amendments will impact small businesses, small municipalities and not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: These amendments do not require any additional reporting, bookkeeping or other procedures to be in compliance with this rulemaking.

C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included in either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the January 1996 regulatory agenda was published.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 420
REGISTRATION OF RADON DETECTION AND MITIGATION SERVICES

Section	
420.10	Policy and Scope
420.20	Definitions
420.30	Exemptions
420.40	Application for Registration
420.50	Issuance of Registration Certificates
420.60	Fees
420.70	Suspension and Revocation of Registration
420.80	Civil Penalties

AUTHORITY: Implementing and authorized by the Radon Testing Act [420 ILCS 45].

SOURCE: Adopted at 14 Ill. Reg. 19308, effective November 26, 1990; amended at 20 Ill. Reg. _____, effective _____.

Section 420.50 Issuance of Registration

a) Registration

- 1) Except as provided in subsection (b) of this Section, the Department shall register and shall issue a Certificate of Registration to:
 - A) Any individual who has at least 4 years of radiological safety, environment sampling, or industrial hygiene experience.
 - B) Any individual who has an Associate of Arts degree in a physical or biological science and 2 years of radiological safety, environmental sampling, or industrial hygiene experience.
 - C) Any individual who has a Baccalaureate degree in a physical or biological science or engineering.
 - D) Any individual who has successfully completed a course that covers the following topics:
 - i) Radon Health Effects and Health Risks;
 - ii) Radon Sources;
 - iii) Radon Entry Points and Transport Pathways;
 - iv) Screening Measurement Techniques and Devices;
 - v) Follow-up Measurement Techniques and Devices;
 - vi) Diagnostic Measurement Techniques and Devices;
 - vii) Quality Assurance;
 - viii) Worker Health and Safety; and
 - ix) Documentation.

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Agency Note: Each of the following courses covers the topics identified in subsection (a)(1)(D) of this Section above:

- 1) United States EPA Radon Contractor Proficiency Program as described in the "EPA Radon Contractor Proficiency Program," issued September 7, 1990.
- 2) United States EPA Radon Measurement Proficiency Program as described in the "National Radon Measurement Proficiency (RMP) Program, Application and Participation Manual," EPA document #52011-88-056 (December 1988).
- 3) The Illinois Department of Nuclear Safety Measurement Course.

E) Copies of the two U.S. EPA documents are available from the Department. Any person other than an individual, (e.g., a partnership, firm or company) who employs at least one individual, registered in accordance with subsection (a)(1)(A), (B), (C) and (D) of this Section above, provided that the registered individual will direct and be responsible for all radon testing activities undertaken by the person and provided further that the registered individual will personally review and approve all test results before they are disclosed to the client.

- 2) The registration issued pursuant to subsection (a)(1)(A), (B), (C) and (D) of this Section shall be valid for a period of 2 years. Registration issued pursuant to subsection (a)(1)(E) of this Section shall be valid for one year.

b) The Department shall deny registration to any person if the Department has evidence that the applicant has engaged in any of the acts listed in Section 420.70(a) of this Part unless the condition listed in Section 420.70(a) of this Part no longer exists and the applicant submits documentation that he satisfies the requirements of subsection (a) of this Section above.

c) The Department shall refuse to issue or renew registration to any individual if the Department has evidence that the applicant is delinquent in the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission, as set forth in 20 ILCS 2005/71.

d) The Department shall refuse to issue or renew registration to any individual, after an opportunity for a hearing, if the Department has evidence that the applicant is delinquent in the payment of child support orders, as set forth in 5 ILCS 100/10-65. In cases where the delinquency has been previously determined by the Department of Public Aid, an opportunity for a hearing will not be granted.

e) Registration issued pursuant to subsection (a)(1)(A), (B), (C) and (D) of this Section shall be renewable for 2 year periods. Registration issued pursuant to subsection (a)(1)(E) of this Section shall be renewable for 1 year periods.

DEPARTMENT OF NUCLEAR SAFETY

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 420.70 Suspension and Revocation of Registration

- a) The Department shall act to suspend or revoke a person's registration for any one or a combination of the following causes:
- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for registration, if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for registration under this Part, such as a misstatement or misrepresentation regarding training or experience;
 - 2) Willfully evading the statute or regulations pertaining to registration, or willfully aiding another person in evading such statute or regulations pertaining to registration;
 - 3) Having been convicted in any State of a crime which is a felony under the laws of this State or having been convicted of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust; and
 - 4) Misrepresenting the capabilities of a device for detecting and measuring radon or radon progeny or intentionally misrepresenting the results of a test to detect or measure radon or radon progeny;
 - 5) Failing to repay an educational loan guaranteed by the Illinois Student Assistance Commission as provided in 20 ILCS 2005/71; and
 - 6) Failing to meet child support orders as provided in 5 ILCS 100/10-65.
- b) If, based upon any of the above grounds, action to suspend or revoke registration is initiated, the Department shall notify the person and shall provide an appointment for hearing in accordance with 32 Ill. Adm. Code 200-60. An opportunity for hearing shall be provided before the Department takes action to suspend or revoke a person's registration.
- c) The usual action shall be a suspension of registration for up to one year. The term of suspension shall be reduced by the Director, upon the recommendation of the hearing officer, if the hearing officer finds, based upon evidence presented to him/her at a hearing, and the Director concurs, that the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions which posed an immediate threat to public health or safety or deficiencies that cannot be cured within one year, the Department shall revoke the person's registration.
- d) When a person's registration is suspended or revoked, the person shall surrender the certificate of registration to the Department.
- e) A person whose registration has been revoked may seek reinstatement of

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registration by filing with the Department a petition for reinstatement ~~that complies with the requirements of 32-III-Adm-Code 200-60.~~ Such petition may be filed one year or more after the beginning of the revocation period. The person shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the registration should be reinstated due to rehabilitation.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Food Stamps

2) Code Citation: 89 Ill. Adm. Code 121

3) Section Number: Proposed Action:
121.58 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and the Mickey Leland Memorial Domestic Hunger Relief Act of 1990.

5) Complete Description of the Subjects and Issues Involved: This rulemaking amends the Food Stamp Program rules to implement provisions contained in the Mickey Leland Memorial Domestic Hunger Relief Act of 1990 and the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 that expand the criteria by which a resource can be considered inaccessible. In accordance, these proposed amendments provide an additional exclusion for resources which are unlikely to produce a significant return or significant funds for the support of the household.

As a result of these proposed amendments, an asset is inaccessible if the sale or other disposition of the asset would net the Food Stamp household less than \$1,000 (or less than \$1,500 if there is a person age 60 or older in the Food Stamp household). The net is determined by subtracting the expenses of disposing of the property from the property's equity value. This exclusion does not apply to vehicles, negotiable financial instruments or stocks and bonds.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunna
Bureau of Rules and Regulations

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Public Aid
100 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62767
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section	
121.1	Application for Assistance
121.2	Time Limitations on the Disposition of an Application
121.3	Approval of an Application and Initial Authorization of Assistance
121.4	Denial of an Application
121.5	Client Cooperation
121.6	Emergency Assistance
121.7	Expedited Services
121.10	Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.19	Ending a Voluntary Quit Disqualification
121.20	Citizenship
121.21	Residence
121.22	Social Security Numbers
121.23	Work Registration/Participation Requirements (Repealed)
121.24	Individuals Exempt From Work Registration Requirements (Repealed)
121.25	Failure to Comply (Repealed)
121.26	Period of Disqualification (Repealed)
121.27	Voluntary Job Quit
121.28	Good Cause for Voluntary Job Quit
121.29	Exemptions from Voluntary Quit Rule

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder

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121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions From Monthly Income
121.64	Coupon Allotment

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA - Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section	
121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)
121.84	Disqualification Upon Finding of Fraud (Renumbered)
121.85	Court Imposed Disqualification (Renumbered)
121.90	Monthly Reporting and Retrospective Budgeting
121.91	Monthly Reporting
121.92	Retrospective Budgeting
121.93	Direct Mail Issuance of Food Stamp Coupons
121.94	Replacement of Food Stamp Coupons
121.95	Restoration of Lost Benefits
121.96	Uses For Food Coupons
121.97	Supplemental Payments
121.98	Food Stamp Simplified Application Demonstration Project (Repealed)
121.120	Recertification of Eligibility
121.130	Residents of Shelters for Battered Women and their Children

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121.135 Incorporation By Reference
 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section
 121.150 Definition of Intentional Violations of the Program
 121.151 Penalties for Intentional Violations of the Program
 121.152 Notification To Applicant Households
 121.153 Disqualification Upon Finding of Intentional Violation of the Program
 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section
 121.160 Persons Required to Participate
 121.161 Participation and Cooperation Requirements
 121.162 Orientation
 121.166 Assessment and Employability Plan
 121.170 Job Search Component
 121.172 Basic Education Component
 121.174 Job Readiness Component
 121.176 Work Experience Component
 121.178 Job Training Component
 121.180 Grant Diversion Component
 121.182 Earnfare Component
 121.184 Sanctions
 121.186 Good Cause for Failure to Cooperate
 121.188 Supportive Services
 121.190 Conciliation and Fair Hearings
 121.200 Types of Claims (Recodified)
 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
 121.203 Collecting Claim Against Households (Recodified)
 121.204 Failure to Respond to Initial Demand Letter (Recodified)
 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
 121.206 Determination of Monthly Allotment Reductions (Recodified)
 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
 121.208 Suspension and Termination of Claims (Recodified)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

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SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8998, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill.

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Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994;

DEPARTMENT OF PUBLIC AID

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amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.58 Exempt Assets

- a) Homestead Property
 - 1) The home and surrounding property which, exclusive of public rights of way, is not separated from the home by intervening property owned by others.
 - 2) Homes which are temporarily unoccupied for reasons of employment, training for future employment, illness, or inhabitability caused by casualty or natural disaster, remain exempt if the household intends to return.
 - 3) A lot owned or being purchased by the household if the household intends to build or is building a permanent home and the household does not currently own a home.
- b) Personal Property

Household goods, personal effects, one burial plot per household member, and the cash value of life insurance policies and pension plans except Individual Retirement Accounts (IRA's) and Keogh plans which do not involve a household member in a contractual relationship with someone who is not a member of the same food stamp household. If the Keogh plan involves a member of the household and someone who is not a member of the same food stamp household, it is exempt unless the client can withdraw funds from the plan without affecting the other individual or individuals.
- c) Income Producing Property
 - 1) Property which is annually producing income consistent with its fair market value (including land or buildings being sold by installment contract), even if only used on a seasonal basis.
 - 2) Property which is essential to the employment or self-employment of a household member, such as, farmland and work related equipment (tools of a tradesman, farm machinery). In the case of farm property (including land, equipment, and supplies) that is essential to the self-employment of a household member in a farming operation, the value of such property shall be excluded from financial resources until the expiration of the one year period beginning on the date such member ceases to be self-employed in farming.
 - 3) A rental home which is used by a household for vacation purposes

DEPARTMENT OF PUBLIC AID

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at sometime during the year is an asset, unless excluded by subsection (c)(1) of this Section.

- d) Disaster Relief Payments
Disaster relief payments provided by federal, state or local government or a disaster assistance organization.

- e) Inaccessible Assets

Assets whose cash value is not accessible to the household, such as but not limited to:

- 1) irrevocable trust funds,
- 2) security deposits on rental property and utilities,
- 3) property in probate,
- 4) real property when a good faith effort is being made to sell at a reasonable price,
- 5) jointly owned assets which cannot be practically subdivided and are accessible only with the consent of the joint owner who refuses to give that consent,

- 6) Non-liquid asset or assets (see Section 121.57(b)(2)(B)) which have a lien against it as a result of a business loan and the household is prohibited by the security or lien agreement from selling the asset or assets, or

- 7) Monies received from the Social Security Administration under the PASS Program that are held in a separate account, or

- 8) Assets, if when sold or otherwise disposed of, would net the household less than \$1000 (or less than \$1500 if there is a person age 60 or older in the household). The net is determined by subtracting the expenses of disposing of the property from the equity value. This does not apply to vehicles, negotiable financial instruments or stocks and bonds.

- f) Prorated Income

Money which has been prorated as income, such as income of self-employed persons or students.

- g) Indian Lands

Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

- h) Federal Statute Exclusions

Assets excluded for food stamp purposes by express provision of Federal Statute.

- i) Licensed Vehicles

- 1) used primarily for producing income such as, but not limited to, a taxi, truck, or fishing boat. "Used primarily" means: used over 50% of the time the vehicle is used;

- 2) annually producing income consistent with its fair market value (even if only used on a seasonal basis);

- 3) necessary for long distance travel essential to employment, other than daily commuting (such as a sales person, migrant farmworker);

- 4) necessary for subsistence hunting or fishing (game and fish necessary for the livelihood of the household);

DEPARTMENT OF PUBLIC AID

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- 5) used as the household's home;
- 6) necessary to transport a physically disabled household member regardless of the purpose of such transportation. Only one vehicle per disabled person is allowed. The vehicle need not be specially equipped or used primarily for the transportation of the disabled individual;

*Agency Note: Exclusions 1-6 also apply when the vehicle is not in use because of temporary unemployment.

- 7) The equity value (but not fair market value) of one licensed vehicle per household, regardless of its use;

- 8) The equity value (but not fair market value) of any other licensed vehicles used to transport household members to and from employment, training or education which is preparatory for employment, or to seek employment in compliance with job search criteria. Temporary periods of unemployment are not to affect this exemption; and

- 9) Property, real or personal, to the extent that it is directly related to the maintenance or use of a vehicle excluded under subsections (i)(1), (i)(2) or (i)(3) of this Section.

- j) Assets of an AFDC or SSI household member

All assets of a household member who receives AFDC or SSI benefits.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3) Section Number:
148.82 Proposed Action:
Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: Several changes are being proposed to the Department's procedures concerning organ transplant services. These proposed amendments allow for Department coverage of bone marrow searches for those individuals who have been selected as candidates for allogeneic bone marrow transplantation. Reimbursement will be limited to 60 percent of charges up to a maximum of \$25,000. These criteria were approved by the State Medical Advisory Committee (SMAC) members in July 1995.

Proposed changes are also being made concerning requirements for hospital notification to the Department prior to performance of a transplant procedure. The requirement for hospitals to include the initial work-up summary of medical finding is being eliminated. In March 1992, the Department eliminated the case by case prior approval of transplants (which necessitated the need for the summary of medical findings) and implemented the certified center policy which allows certified transplant centers to select candidates for transplantation services. Transplant centers are certified on an annual basis and are required to perform a specific number of procedures and meet specific survival rates. Since transplant procedures no longer require prior approval and certified transplant centers choose candidates for transplant procedures, the work-up summary of medical findings is not necessary. Elimination of this requirement will amend the transplant provisions to accurately reflect the current process.

Other proposed changes include the elimination of references to "a tertiary care hospital" and the striking of a redundant statement in subsection (g)(3) regarding Medicaid High Volume Adjustments. The language concerning tertiary care is not necessary since the Department's rules reflect that a certified transplant center must be capable of providing all necessary medical care required by the transplant patient and be affiliated with an academic health center.

For fiscal year 1996, the Department anticipates that 27 allogeneic bone marrow transplants will be performed and the cost of the associated bone marrow searches is expected to be approximately \$675,000. Therefore, the proposed amendments to cover bone marrow searches are not expected to result in significant budgetary changes.

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6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave., E., 11th Floor
Springfield, Illinois 62762
(Phone: (217) 524-0081).

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Department of Public Aid's local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the

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Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Hospitals certified as organ transplant centers

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER 3: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

Section	
148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services
148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.90	Heart Transplants (Repealed)
148.100	Liver Transplants (Repealed)
148.110	Bone Marrow Transplants (Repealed)
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in a County with a Population of Over Three Million
148.170	Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175	Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180	Payment for Pre-Operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190	Copayments
148.200	Alternate Reimbursement Systems
148.210	Filing Cost Reports
148.220	Pre September 1, 1991 Admissions
148.230	Admissions Occurring on or after September 1, 1991
148.240	Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250	Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260	Calculation and Definitions of Inpatient Per Diem Rates
148.270	Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280	Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.290	Adjustments and Reductions to Total Payments

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- 148.295 Critical Hospital Adjustment Payment (CHAP)
 148.300 Payment
 148.310 Review Procedure
 148.320 Alternatives
 148.330 Exemptions
 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
 148.350 Definitions
 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services
 148.368 Volume Adjustment (Repealed)
 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services
 148.390 Hearings
 148.400 Special Hospital Reporting Requirements

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14778, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective

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January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. _____, effective

Section 148.82 Organ Transplant Services

a) Introduction

The Department of Public Aid will cover organ transplants as identified under subsection (b) below which are provided by certified organ transplant centers which meet the requirements specified in subsections (c) through (h) of this Section.

b) Covered Services

- 1) Bone marrow, heart, heart/lung, lung (single or double), liver, pancreas or kidney pancreas transplant ~~excluding bone-marrow searches.~~

- 2) Other types of transplant procedures may be covered when a hospital has been certified by the Department as a transplant center eligible to perform such transplants. Centers must complete the certification process established in subsection (c) of this Section and provide the necessary documentation of the number of transplant procedures performed and the survival rates.
- 3) Medically necessary work-up and evaluation up to three (3) days prior to transplantation.

c) Certification Process

- 1) In order to be certified to receive reimbursement for transplants performed on Medicaid patients, the hospital must:

A) Request an application from the Bureau of Hospital Services;
 B) Submit a completed application to the Department for the type of transplant for which the center is seeking certification;

- C) Meet certification criteria established in subsection (d) below, based upon review and recommendation of each application by the State Medical Advisory Committee (SMAC); and

- D) Submit a detailed status report on each patient for the type of transplant for which the hospital is seeking certification. Such reports must include the patient's diagnosis, date of transplant, the length of hospitalization, charges, survival rates, patient-specific transplant outcome, and complications (including cause of death, if applicable) for all transplants performed for the two years preceding the date of the application. To protect

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the privacy of patients included in this report, names of Medicaid and non-Medicaid patients are not required.

2) The Department shall notify the hospital of approval or denial of the hospital as a transplant center for Medicaid eligible patients.

3) In the event that no hospital formally certified by the Department is able to provide a covered service set forth in subsection (b) above within the time frame necessary to preserve the recipient's health, the Department shall review a request for prior approval of the service from a non-certified facility, and if the facility satisfies the criteria for certification, approve the request on an individual case basis.

d) Certification Criteria

1) Hospitals seeking certification as a transplant center shall submit documentation to verify that:

A) The hospital is ~~a--tertiary--care--hospital~~ capable of providing all necessary medical care required by the transplant patient;

B) The hospital is affiliated with an academic health center;

C) The hospital has had the transplant program for heart and liver transplants in operation for at least three years with 12 transplant procedures per year for the past two years and 12 cases before that for adult heart and liver transplants;

D) The hospital has had the transplant program for heart/lung and lung transplants in operation for at least three years with ten transplant procedures per year for the past two years and ten cases before that for adult heart/lung and lung transplants;

E) A hospital specializing in pediatric heart/lung and lung transplants has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures before that;

F) The hospital has had the transplant program for adult and pediatric bone marrow transplants in operation for at least two years with 12 transplant procedures per year for the past two years;

G) A hospital specializing in pediatric heart or liver transplants, or both, has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures before that;

H) The hospital has had the transplant program in operation for at least three years with 25 transplant procedures per year for the past two years and 25 cases before that for kidney transplants, and five transplant procedures per year for the past two years and five before that for pancreas transplants, or 12 transplant procedures per year for the

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past two years and 12 before that for kidney/pancreas transplants;

I) The hospital has experts, on staff, in the fields of cardiology, pulmonology, anesthesiology, immunology, infectious disease, nursing, social services, organ procurement, associated surgery and internal medicine to complement the transplant team. In addition, in order to qualify as a transplant center for pediatric patients, the hospital must also have experts in the field of pediatrics;

J) The hospital has an active cardiovascular medical and surgical program as evidenced by the number of cardiac catheterizations, coronary arteriograms and open heart procedures per year for heart transplant candidates;

K) The hospital has pathology resources that are available for studying and reporting the pathological responses for transplantation;

L) The hospital complies with applicable State and Federal laws and regulations;

M) The hospital participates in a recognized national donor procurement program, abides by its rules, and provides the Department with the name of the national organization of which it is a member;

N) The hospital has an interdisciplinary body to determine the suitability of candidates for transplantation;

O) The hospital has blood bank support necessary to meet the demands of a certified transplant center; and

P) The hospital meets the applicable transplant survival rates as supported by the Kaplan-Meier method or other method accepted by the Department:

i) A one-year survival rate of 50 percent for bone marrow transplant patients;

ii) A one-year survival rate of 75 percent and a two-year survival rate of 60 percent for heart transplant patients;

iii) A one-year survival rate of 75 percent and a two-year survival rate of 60 percent for liver transplant patients;

iv) A one-year survival rate of 90 percent for kidney transplant and a one-year survival rate of 80 percent for pancreas transplant; or a one-year survival rate of 80 percent for kidney/pancreas transplant patients;

v) A one-year survival rate of 65 percent and a two-year survival rate of 60 percent for heart/lung and lung (single or double) transplant patients.

2) The commitment of the hospital to support the transplant center must be at all levels as evidenced by such factors as financial resources, allocation of space and the support of the professional staff for the transplant program and its patients.

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The hospital must demonstrate that:

- A) Component teams are integrated into a comprehensive transplant team with clearly defined leadership and responsibility;
- B) The hospital safeguards the rights and privacy of patients;
- C) The hospital has adequate patient management plans and protocols to meet the patient and hospital's needs.
- 3) The hospital must identify, in writing, the director of the transplant program and the members of the team as well as their qualifications. Physician team members must be identified as board certified, in preparation for board certification, or pending board certification, and the transplant coordinator's name must be submitted.
- 4) The hospital must provide patient selection criteria including indications and contraindications for the type of transplant procedure for which the facility is seeking certification.

e) Recertification Process/Criteria

- 1) The Department will conduct an annual review for certification of transplant centers. A certified center must submit documentation established under subsections (c), (d), (f) and (h) of this Section for review by the Department's State Medical Advisory Committee for recertification as a transplant center.
- 2) Survival rates of previous transplant patients must be documented prior to certification. The center must maintain patient volume in the year of certification based on previous transplant statistics.
- 3) The Department shall notify the hospital of approval or denial of the recertification of the hospital as a transplant center.

f) Notification of Transplant

- 1) The hospital must notify the Department prior to performance of the transplant procedure. The notification letter must be from a physician on the transplant team.
- 2) The notification must include the admission diagnosis and pre-transplant diagnosis ~~and the initial work-up summary of medical findings.~~
- 3) The Department shall notify the hospital regarding receipt of the notification and provide the appropriate "patient tracking" forms to the hospital.

g) Reimbursement

- 1) Hospital services rendered for transplant procedures under this Section are exempt from the provisions of Sections 148.250 through 148.330 and 89 Ill. Adm. Code 149 of the Department's administrative rules governing hospital reimbursement. Hospital reimbursement for transplants covered within this Section is an all-inclusive rate for the admission, regardless of the number of days of care associated with that admission, which is limited to a maximum of 60 percent of the hospital's usual and customary charges to the general public for the same procedure for the

DEPARTMENT OF PUBLIC AID

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number of days listed below for specific types of transplants:

- A) Three days of pre-operative inpatient work-up; and
- B) A maximum 30 consecutive days of post-operative inpatient care for heart, heart/lung, lung (single or double), pancreas, or kidney/pancreas transplant; or
- C) 40 consecutive days of inpatient care for liver transplant; or
- D) 50 consecutive days of inpatient care for bone marrow transplant; or
- E) For those transplants covered under subsection (b)(2) of this Section, the number of consecutive days of inpatient care specified within the transplant certification process.

- 2) Reimbursement will be approved only when the Department's letter acknowledging the notification of the transplant procedure is attached to the hospital's claim.

- 3) Applicable disproportionate share payment adjustments shall be made in accordance with Section 148.120(g). Applicable outlier adjustments shall be made in accordance with Section 148.130. Applicable inpatient payment adjustments shall be made in accordance with Section 148.290. ~~Applicable Medicare-High-Volume Adjustments shall be made in accordance with Section 148.298(h).~~
- 4) The rate will not include transportation and physician fees when reimbursed pursuant to 89 Ill. Adm. Code 140.410 through 140.414 and 140.490 through 140.492, respectively.

- 5) Hospital reimbursement for bone marrow searches is limited to 60 percent of charges up to a maximum of \$25,000. Payment for bone marrow searches will only be made to the certified center requesting reimbursement for the bone marrow transplant.

h) Reporting Requirements of Certified Transplant Center

The following documentation must be submitted within the time limits set forth in this subsection.

1) Patient Tracking

- A) The center must submit annually a statistical summary including information for all patients having received transplants at the transplant center. Patients not covered by Medicaid may be identified numerically or by other means identified by the hospital, to protect patient confidentiality. The summary must include, but is not limited to, short and long term outcome on all patients.
- B) The discharge summary for each Medicaid patient must be received by the Department within 30 days of the patient's discharge.
- C) The annual outcome summaries for each Medicaid patient must be received by the Department within 30 days of the annual patient post-transplant evaluation.
- D) For those Medicaid patients who expire, a summary must be received by the Department within 30 days of the patient's death.

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- 2) Notification of Changes
The center must notify the Department within 30 days of any changes in its program, including, but not limited to, certification criteria, patient selection criteria, members of the transplant team and the coordinator.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Drinking Water Systems Code
- 2) Code Citation: 77 Ill. Adm. Code 900
- 3) Section Numbers: Proposed Action:
900.15 Amendment
900.20 Amendment
- 4) Statutory Authority: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking specifies that the rules of the Pollution Control Board concerning operation and recordkeeping for public water supplies and primary drinking water standards apply to non-community water systems regulated under Part 900. The rulemaking also corrects references to the rules of the Pollution Control Board on operation and recordkeeping for public water supplies and deletes a reference to the Board's repealed rules on sampling and monitoring for public water supplies.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? Yes

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State Mandate on units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the Illinois Register to:

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

These rules may have an impact on small businesses. Any small business may present their comments in writing to Gail M. DeVito at the above address.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Any small business (as defined in the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses Affected: Owners of non-community water systems.
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: None
- C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need to correct Part 900 had not been detected at the time the Department's regulatory agendas were filed.

The full text of the proposed amendments is identical to the text of emergency amendments that appear in this issue of the *Illinois Register* on pages **3970**

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Local Health Protection Grant Rules
- 2) Code Citation: 77 Ill. Adm. Code 615
- 3) Section Numbers: Proposed Action:
615.210 Amendment
- 4) Statutory Authority: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5/Div. 5-25]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55].

5) A Complete Description of the Subject and Issues Involved: The rulemaking will:

- a. Increase the minimum annual local health protection grant award to local health departments (LHD's) from \$22,500 to \$23,250, effective immediately and to \$26,000, effective July 1, 1996.
- b. Allocate income (40%) and assessed valuation (10%) portions of the formula to all LHD's -- based upon each jurisdiction's per capita income and per capita assessed valuation relative to the maximum LHD's income and assessed valuations, respectively. This provision will be in effect until July 1, 1996, at which time this component will be eliminated. On July 1, 1996 the allocation would revert back to the longstanding practice of allocating funds based on the per capita income/assessed valuation criteria only to LHD's with less than the statewide average per capita income/assessed valuation, based upon a comparison of each jurisdiction's per capita income/assessed valuation to the statewide averages.
- c. For multi-county LHD's, ensure that each receives no less than it would as an individual county health department.
- d. Allow the Department to establish a maximum grant award.
- e. Allow the Department to establish a maximum allowable annual % change (either increase or decrease) in the total grant award for participating local health departments. Any decision to impose such limits may not be made by the Department without granting the Illinois Association of Public Health Administrators advance notice and an opportunity for comment.
- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain any Incorporations by Reference? No

DEPARTMENT OF PUBLIC HEALTH

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- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State Mandate on units of local government.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-6187

within 45 days after this issue of the *Illinois Register*.

These rules may have an impact on small businesses. Any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in the Illinois Administrative Procedure Act) commenting on these rules shall indicated their status as such in their comments.

- 12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses Affected: None

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: None

C) Types of Professional Skills Necessary for Compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need to implement this allocation methodology had not been identified at the time the Department's regulatory agendas were filed.

The full text of the proposed amendments is identical to the text of emergency amendments that appear in this issue of the Illinois Register on page **3977**.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Interstate Common Pools
- 2) Code Citation: 11 Ill. Adm. Code 302
- 3) Section Numbers: 302.20 Proposed Action: Amendment
- 4) Statutory Authority: 230 ILCS 5
- 5) A complete description of the subjects and issues involved: Section 302.20 requires Illinois tracks to calculate prices and make payoffs based on Illinois handle rather than the sending track's prices in the event of an interstate pool transmission. Transmission failures have occurred more frequently than originally anticipated and in such cases the disparity in payoffs between Illinois tracks and out-of-state tracks is a constant source of patron complaints and inquiries. This rulemaking will require Illinois tracks to make payoffs, in cases of transmission failure, based on the sending racetrack's prices. In cases of transmission failure, wagers with carryover pools will be subject to a refund.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:

Gina DiCaro
Illinois Racing Board, Legal Department
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small business affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Board; therefore, it has not been published in a regulatory agenda.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER I: ILLINOIS RACING BOARD
 SUBCHAPTER a: GENERAL RULES
 PART 302
 INTERSTATE COMMON POOLS

Section

302.10 General
 302.20 Illinois as the Guest State
 302.30 Illinois as the Host State

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 8002, effective June 5, 1995, for a maximum of 150 days; adopted at 19 Ill. Reg. 13922, effective October 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 302.20 Illinois as the Guest State

- a) Pari-mutuel wagering pools may be combined with corresponding wagering pools in the host state, or with corresponding pools established by one or more other jurisdictions.
- b) ~~In the event that an organization licensee commingles Illinois pools with the pools of an out-of-state track, all Illinois pool data shall be transmitted by the organization licensee as one pool irrespective of the number of totalizer services involved.~~
- e) In the event that an organization licensee commingles Illinois pools with the pools of an out-of-state track, all rules in effect in the host state shall apply.
- ~~cd) In the event that an organization licensee elects to commingle commingles Illinois pools with the pools of an out-of-state track, if for any reason it becomes impossible for any licensee to successfully merge all Illinois wagers into the interstate common pool, the organization licensee shall make payouts calculate prices and make payoffs based on Illinois handle rather than issuing refunds or making payoffs based on the sending race track's prices. In the event it becomes impossible to merge wagers involving exotic pools with existing carryover jackpots, those wagers shall be subject to a refund. All Illinois licensees shall publish a copy of this subsection in their official programs.~~
- de) In the event that an organization licensee commingles Illinois pools with the pools of an out-of-state track, where takeout rates in the common pool are not identical to the takeout rate applicable in Illinois, the Illinois organization licensee may adopt the takeout rate of the sending state or utilize the net price calculation method.
- ef) An interstate commission fee shall exceed 5% only for Grade I thoroughbred races and only for harness races with purses exceeding

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

\$200,000.

(g) All Illinois licensees shall provide the Board with pari-mutuel data by way of electronic transmission in a Board prescribed format.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

INDUSTRIAL COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Arbitration
- 2) Code Citation: 50 Ill. Adm. Code 7030
- 3) Section Numbers: Adopted Action:
7030.10 Amendment
7030.30 Amendment
- 4) Statutory Authority: Sections 16 and 19 of the Worker's Compensation Act [820 ILCS 305/16 and 305/19]
- 5) Effective Date of Rulemaking: February 15, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: February 15, 1996
- 9) Notice of Proposal Published in Illinois Register: June 16, 1995 at 19 Ill. Reg. 7764
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: Nonsubstantive editing changes recommended by JCAR were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this part? Yes. September 8, 1995 at 19 Ill. Reg. 12569
- 15) Summary and Purpose of Rulemaking: Section 7030.10(d) is amended to give the Commission the authority to consolidated cases in which more than one Petitioner files a claim against the same Respondent relating to the same accident.
Section 7030.10 is amended to clarify and expand the provision relating to disqualification of Arbitrators and Commissioners. The amendment provides examples of instances where disqualification should occur and provides for remittal of disqualification in certain instances. The amendment also includes provisions regarding reassignment of cases in which disqualification occurs.
- 16) Information and questions regarding these adopted amendments shall be

INDUSTRIAL COMMISSION

NOTICE OF ADOPTED AMENDMENTS

directed to:

Kathryn Kelley, Counsel
Industrial Commission
100 West Randolph, Suite 8-272
Chicago Illinois 60601
312/814-6559

The full text of the Adopted Amendment begins on the next page:

INDUSTRIAL COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER II: INDUSTRIAL COMMISSION

PART 7030

ARBITRATION

Section

7030.10 Arbitration Assignments
7030.20 Setting a Case for Trial
7030.30 Disqualification of Commissioners and Arbitrators
7030.40 Request for Hearing
7030.50 Subpoena Practice
7030.60 Depositions
7030.70 Rules of Evidence
7030.80 Briefs, Arbitrators' Decisions
7030.90 Opening and/or Closing Statements
7030.100 Voluntary Arbitration under Section 19(p) of the Workers' Compensation Act and Section 19(m) of the Workers' Occupational Diseases Act

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act (Ill. Stat. 1991, ch. 48, pars. 138.19 and 138.16) [820 ILCS 305/19 and 16] and the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1991, ch. 48, pars. 172.54 and 172.51) [820 ILCS 310/54 and 51].

SOURCE: Filed and effective March 1, 1977; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency rule at 5 Ill. Reg. 8547, effective August 3, 1981, for a maximum of 150 days; amended at 6 Ill. Reg. 3570, effective March 22, 1982; emergency rule at 6 Ill. Reg. 5820, effective May 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 7, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2514; amended at 9 Ill. Reg. 19722, effective December 6, 1985; emergency rule at 14 Ill. Reg. 4913, effective March 9, 1990, for a maximum of 150 days; emergency expired August 6, 1990; amended at 14 Ill. Reg. 13141, effective August 1, 1990; amended at 15 Ill. Reg. 8214, effective May 17, 1991; amended at 20 Ill. Reg. ~~3820~~ **3820**, effective ~~July 1, 1991~~.

Section 7030.10 Arbitration Assignments

- a) In cases arising in Cook County, cases shall be assigned at the time of the First Notice of Hearing to Arbitrators on a random basis by a computer program. All cases filed prior to January 1, 1982, which have not been assigned to an Arbitrator for hearing or settlement shall be assigned to Arbitrators using a random assignment system established at the direction of the Commission to facilitate assignment of all such cases to an Arbitrator in an equitable and efficient manner.

INDUSTRIAL COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- b) In cases arising outside Cook County, cases shall be assigned to an Arbitrator depending on the place of accident. Each Arbitrator outside Cook County shall be given a zone or geographical territory; all claims based on accidents occurring within such zones shall be assigned to that Arbitrator.
- c) All assignments on arbitration are final except as otherwise provided in Sections 7030.30 7030.20 and 7070.40, or where consolidation with a previously filed case is required.
- d) In the event a Petitioner has an Application for Adjustment of Claim pending and files one or more Applications for Adjustment of Claim against the same Respondent, or against different Respondents alleging accidental injuries to the same part of the body subsequent cases shall on motion of any party be assigned to the case filed first. If a case is dismissed or otherwise closed and the Petitioner files an Application for Adjustment of Claim relating to the same accident, the case will be assigned to the Arbitrator assigned to the first case filed involving that accident. Where more than one Petitioner files a claim against the same Respondent relating to the same accident, the cases may be consolidated before the Arbitrator assigned to the case first filed upon motion of any party, if such consolidation would promote consistency and efficiency of administration. All disputes involving reassignment shall be heard by the Chairman or a Commissioner designated by the Chairman.

(Source: Amended at 20 Ill. Reg. **3820**, effective **FEB 1 1988**)

Section 7030.30 Disqualification of Commissioners and Arbitrators

- a) No Arbitrator or Commissioner financially or otherwise interested in the outcome of any litigation, or any question connected therewith, shall participate in any manner in the adjudication of said cause, including the hearing of settlement contracts for lump sum petitions. ~~No change of hearing officer will be allowed for any other reason.~~
- b) Examples of instances where disqualification by an Arbitrator or Commissioner should occur include, but are not limited to the following:
- 1) he or she has personal knowledge of disputed evidentiary facts concerning the proceedings;
 - 2) he or she served as an attorney in the matter in controversy;
 - 3) he or she is a material witness concerning the matter;
 - 4) he or she was, within the preceding two years, associated in the practice of law with any law firm or attorney currently representing any party in the controversy;
 - 5) he or she was, within the preceding two years, employed by any party to the proceeding or any insurance carrier, service or adjustment company, medical or rehabilitation provider, labor

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- 6) organization or investigative service involved in the claim; he or she or his or her spouse, or a person within the third degree of relationship (pursuant to the civil law system) to either of them, or the spouse of such person:
- A) is a party to the proceeding, or an officer, director or trustee of a party;
 - B) is acting as an attorney in the proceeding;
 - C) is known by the Arbitrator or Commissioner to have a substantial financial interest in the subject matter in controversy;
 - D) is to the Arbitrator's or Commissioner's knowledge likely to be a material witness in the proceeding;
 - 7) he or she negotiated for employment with a party, a party's attorney or insurance carrier or service or adjustment company, in a matter in which the Arbitrator or Commissioner is presiding or participating in an adjudicative capacity.

c) Remittal of Disqualification

An Arbitrator or Commissioner disqualified under subsections (b)(5), (b)(6) or (b)(7) above, may disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and attorneys, independently of the Arbitrator's or Commissioner's participation, all agree in writing that the Arbitrator's or Commissioner's interest is immaterial, the Arbitrator or Commissioner may participate in the proceeding. The agreement signed by all parties and all attorneys shall be made a part of the record of the proceeding.

d) Reassignment

1) Cases on Arbitration

A) Where an Arbitrator withdraws from a case and the venue of said case arises in Cook County, it shall be the duty of the Arbitrator to notify the Industrial Commission, whose function it shall be to transfer said case to a new Arbitrator chosen randomly from all the Arbitrators in Cook County.

B) Where an Arbitrator withdraws from a case and the venue of said case arises outside Cook County, it shall be the duty of the Arbitrator to notify the Industrial Commission, whose function it shall be to transfer said case to a new Arbitrator in the nearest contiguous geographical territory.

2) Cases on Review

When a Commissioner withdraws from a case, it shall be the duty of the Commissioner to notify the Industrial Commission, whose function it shall be to transfer the case to a Commissioner, representative of the same statutorily designated class, sitting on a panel other than that on which the withdrawing Commissioner sits.

(Source: Amended at 20 Ill. Reg. **3820**, effective

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1) Heading of the Part: Insurance Regulations2) Code Citation: 50 Ill. Adm. Code 71003) Section Numbers: 7100.70
Adopted Action:
Amendment4) Statutory Authority: Sections 4 and 16 of the Worker's Compensation Act [820 ILCS 305/4 and 16]. and the Worker's Occupational Diseases Act [310 /4 and 310/16].5) Effective Date of Rulemaking: February 15, 19966) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain an incorporations by reference? No8) Date Filed in Agency's Principal Office: February 15, 19969) Notice of Proposal Published in Illinois Register: June 16, 1996 at 19 Ill. Reg. 7770.10) Has JCAR issued a Statement of Objections to these rules? No11) Difference(s) between proposal and final version: In Section 7100.70(b)(4), 5th sentence, added "or is a utility" after the word "company" and "or utility" after the word "subsidiary."

In Section 7100.70(b)(4) changed the spelling of "guaranty" to "guarantee" throughout for consistency.

Nonsubstantive editing changes recommended by JCAR were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A13) Will this rulemaking replace an emergency rule currently in effect? No14) Are there any amendments pending on this Part? No15) Summary and Purpose of Rulemaking: The rulemaking clarifies the requirements for approval as a self-insurer as they relate to not-for-profit corporations and amends the criteria for review of an application and determination of security. The rules are amended to provide that a self-insured employer which meets certain criteria may self-ensure without furnishing security. The amendments provide for additional and alternative means satisfactory to the Commission for securing payment of compensation including, but not limited to, a letter

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of credit and an indemnification agreement. The rulemaking further provides that the Chairman may waive the requirement of a parent guarantor as it relates to an alien parent company, alien controlling employer or a utility if the controlled employer, subsidiary or utility furnishes certain security. Procedures relating to the hearing process are clarified to provide that all hearings are conducted in accordance with the Administrative Procedure Act. The hearing process is amended to provide that an employer may file a petition for reconsideration of a decision by the Chairman and request a hearing on the petition.

16) Information and questions regarding these Adopted Amendments may be directed to:

Janet Kirby
Industrial Commission
Office of Self-Insurance
701 South Second Street
Springfield, Illinois
217/785-7084

The full text of the Adopted Amendment(s) begins on the next page:

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TITLE 50: INSURANCE
CHAPTER II: INDUSTRIAL COMMISSION

PART 7100
INSURANCE REGULATIONS

Section	
7100.10	Insurance Forms
7100.20	Employer Coverage: Policy (Repealed)
7100.30	Policy Information Page
7100.40	Issuance of Binder Certificate (Repealed)
7100.50	Termination of Insurance
7100.70	Requirements For Approval as a Self-Insurer
7100.80	Self-Insurers to File Statements and Reports
7100.85	Administration of Claims Against Securities, Indemnity or Bonds of Self-Insurers
7100.90	Administration of Claims Against Group Self-Insurer's Insolvency Fund
7100.95	Employers Liability Fund
7100.100	Insurance Coverage: Compliance

AUTHORITY: Implementing Section 4 of the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 138.4) [820 ILCS 305/4], Section 4 of the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1991, ch. 48, par. 172.39) [820 ILCS 310/4] and authorized by Section 16 of the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 138.16) [820 ILCS 305/16] and Section 16 of the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1991, ch. 48, par. 172.51) [820 ILCS 310/16].

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 8910, effective August 24, 1981; codified at 7 Ill. Reg. 2345; emergency amendment at 8 Ill. Reg. 15976, effective August 16, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3705, effective March 12, 1985; emergency amendment at 10 Ill. Reg. 6003, effective April 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 15615, effective September 10, 1986; emergency amendment at 14 Ill. Reg. 4920, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13149, effective August 1, 1990; amended at 11 Ill. Reg. 16969, effective November 12, 1991; amended at 20 Ill. Reg. 3826, effective February 15, 1996.

Section 7100.70 Requirements for Approval as a Self-Insurer

a) Application

1) Initial Application

- A) Any private employer under the Workers' Compensation Act ~~(((Rev-Stat-1991-ch-48-par-138.4)))~~ [820 ILCS 305] (the Act) and/or the Workers' Occupational Diseases Act ~~(((Rev-Stat-1989-ch-48-par-172.36-et-seq)))~~ [820 ILCS 310] who shall desire to be approved as a self-insurer

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shall file with the Commission an application for approval on a form prescribed by the Commission and a current financial statement. A private employer does not include group self-insured employers under Section 4(a) of the Workers' Compensation Act or Section 4(a) of the Workers' Occupational Diseases Act or the State of Illinois, any political subdivision of the state, unit of local government or school district, or any other public authorities or quasi-governmental bodies including any subunits of the foregoing entities. (Section 4a-2(c) of the Act)

B) The application and current financial statement shall be signed and sworn to by the president or vice-president and secretary or assistant secretary of the employer if it be a corporation, or by all of the partners, if it be a copartnership, or by the owner if it be neither a copartnership nor a corporation. (Section 4(a)(1) of the Act)

C) In the event the employer does not have a current audited financial statement, the employer must submit a current financial statement which has been prepared by an outside accounting firm.

D) Each controlled employer or subsidiary requesting approval as a self-insurer shall provide the current financial statement of the parent corporation(s) or each of its controlling person(s) designated by the Commission.

i) A subsidiary means any entity in which another company, directly or indirectly, owns, controls or holds, with the power to vote a majority (more than 50 percent) of the outstanding voting securities of the company.

ii) Controlled employer means a not-for-profit corporation with respect to which an individual or another entity has the right either to elect or appoint, directly or indirectly, a majority of the directors, trustees or other governing body of a not-for-profit corporation, or has the right to approve or disapprove, directly or indirectly, the persons appointed as a majority of the directors, trustees or other governing body of a not-for-profit corporation.

iii) Controlling person means an individual or entity which has the right to elect or appoint, directly or indirectly, a majority of the directors, trustees or other governing body of a not-for-profit corporation; or has the right to approve or disapprove, directly or indirectly, the persons appointed as a majority of the directors, trustees or other governing body of a not-for-profit corporation. Each corporate--subsidiary

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requesting approval--as--a--self-insurer--shall--provide the--current--financial--statement--of--the--parent corporation--A--subsidiary--means--any--private--entity--in which--another--company--directly--or--indirectly--owns controls--or--holds--with--the--power--to--vote--a--majority more--than--50--percent--of--the--outstanding--voting securities--of--the--company.

E) All initial applications and financial statements shall be submitted at least 60 days prior to the requested effective date of self-insurance. (Section 4(a)(1) of the Act)

F) All initial applications must include evidence of current Workers' Compensation insurance coverage which shall be maintained until final approval as a self-insurer is granted.

G) Each private employer applying for self-insurance shall indicate how it will service its self-insurance program. The employer shall provide adequate facilities for the investigation, administration and payment of claims or shall contract with a service company possessing such personnel and facilities to provide such services. In determining whether facilities are adequate for the investigation, administration and payment of claims, the following shall be considered:

(i) whether there is personnel experienced in the adjudication of workers' compensation claims;

(ii) whether there is a reporting system for workers' compensation claims;

(iii) whether the reporting system is automated and the frequency of reports generated by the system; and

(iv) the response system to claims filing.

If the employer has contracted with a service company for the administration of claims, a copy of the contract shall be submitted with the initial application.

2) Renewal Application

A) Each private self-insurer shall, upon notice from the Commission, file annually an application to continue the self-insurance privilege. The renewal application shall be on a form prescribed by the Commission and shall be accompanied by a current financial statement as described in subsection (a)(1)(C). The renewal application and current financial statement shall be signed and sworn to in accordance with subsection (a)(1)(B) above. Each subsidiary or controlled employer requesting approval as a self-insurer shall provide the current financial statement of its parent corporation(s) or controlling person(s) designated by the Commission. Each--corporate--subsidiary--shall--provide--the current--financial--statement--of--the--parent--corporation.

B) The self-insurer shall indicate any change in how it will

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service its self-insurance program. If the employer has contracted with a service company for the administration of claims, a copy of the current contract shall be submitted with the renewal application.

b) Application Fee

- 1) Each private employer applying for self-insurance and each private self-insurer applying for renewal (continuation) of the self-insurance privilege shall pay a non-refundable application fee of \$500.00 which shall be deposited upon receipt by the Commission into the Self-Insurers Administration Fund. (Section 4a-4(a) of the Act)

- 2) Where the applicant is a corporation, an application fee shall be required of each corporation and each and every corporate subsidiary. (Section 4a-4(a) of the Act) Where the applicant is a not-for-profit corporation employer, an application fee shall be required for each and every controlling person and each and every employer applying for the self-insurance privilege or the renewal of the self-insurance privilege.

- 3) The application fee shall be paid by check or money order made payable to the Self-Insurers Administration Fund.

c) Review of Application

- 1) Within 45 days of receipt of an initial application or an application to renew the self-insurance privilege, the Self-Insurer's Advisory Board (the Board) shall review or see to the review of the application and submit its recommendations for disposition to the chairman of the Commission (the Chairman). (Section 4(j) of the Act)

- 2) The review of the application shall include, but not be limited to, consideration of the earned points on the financial ratios set forth below: The Board shall evaluate each application on the basis of the employer's ability to demonstrate that its financial strength is sufficient to enable the employer to meet its obligations under the Workers' Compensation Act and the Workers' Occupational Diseases Act. The evaluation shall include, but not be limited to, the following:

A) Earned Points on Financial Ratios

A total of 9 or more points--calculated by adding points earned in each of the following 3 financial ratios--shall create a rebuttable presumption that the employer shows sufficient financial strength to qualify as a self-insurer:

i) Current Assets to Current Liabilities

2	:	1	=	6 points
1.75	:	1	=	5 points
1.6	:	1	=	4 points
1.4	:	1	=	3 points
1.25	:	1	=	2 points

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1.1	:	1	=	1 points
1	:	1	=	0 points

(A negative ratio, one in which current assets are less than current liabilities, may be considered a reason to reject a new application).

- ii) Capital & Retained Earnings (Net of Treasury Stock) to Sales (Less Discounts)

20%	=	6 points
17.5%	=	5 points
13.5%	=	4 points
10%	=	3 points
8.5%	=	2 points
7%	=	1 points
5%	=	0 points

- iii) Capital & Retained Earnings to Long Term Debt

2	:	1	=	6 points
1.75	:	1	=	5 points
1.6	:	1	=	4 points
1.4	:	1	=	3 points
1.25	:	1	=	2 points
1.1	:	1	=	1 points
1	:	1	=	0 points

- B) An employer who earns a total of 18 points in the three financial ratios in subsections (c)(2)(A)(i-iii) above in each year of the most current three years' audited financial statements and has been self-insured for a minimum of three consecutive years shall be deemed to have satisfied the Commission of its financial strength to meet its workers' compensation obligations without the necessity of furnishing security, indemnity or bond or making some other provision satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) below.

- C) A total of 9 to 18 points earned in the three financial ratios in subsections (c)(2)(A)(i-iii) above shall create a rebuttable presumption that the employer's application should be approved conditional upon the furnishing of appropriate security or other means satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) below.

- D) The Board may recommend for approval applicants who earn less than 9 points in the financial ratios of subsections

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subsection (c)(2)(A)(i-iii) if the employer's application and financial statement, together with appropriate security or other means satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) below, demonstrate the ability of the employer to meet its obligations under the Workers' Compensation Act and Workers' Occupational Diseases Act.

3) Security Requirement

Where an applicant is required to furnish security, indemnity or a bond or provide some other means satisfactory to the Commission to guarantee payment of its workers' compensation obligation, the furnishing of such security, indemnity or bond or other provision shall be a condition precedent to the approval of the initial or renewal application for self-insurance. ~~The Chairman shall require as a condition precedent to the approval of an initial or renewal application to self-insure that the applicant furnish security, indemnity, and/or surety bond.~~ The Chairman may also require that the applicant further secure payment of liabilities under the Workers' Compensation Act and Workers' Occupational Diseases Act by obtaining a policy of excess liability or catastrophe insurance on such form as may be required by the Commission.

A) Security Determination

- i) The amount of the security shall be based upon, but not be limited to, such criteria as the employer's financial strength, the amount of aggregate excess insurance, and demonstrated loss experience.
- ii) An employer's financial strength shall be determined by applying the financial ratio summarization below. The financial ratio summarization is based upon the total number of earned points as calculated by applying the financial ratios in subsection (c)(2)(A). A financial factor (percentage) is assigned to the financial ratio summarization. The applicable financial factor is applied in determining the amount of security in subsections (c)(3)(B) and (C) below.

Financial Ratio Summarization

Financial Factor	Earned Points
16 - 18 points	= 35%
14 - 15 points	= 40%
12 - 13 points	= 60%
9 - 11 points	= 70%

B) Security Aggregate Excess Liability Coverage

Employers who have excess liability insurance coverage shall be required to furnish security based upon the amount of aggregate retention applicable to the security requirement

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~~shall be calculated as follows:~~
 i) ~~Where the employer submits audited financial statements, the security shall be in an amount equal to the loss fund size (the aggregate retention not covered by the excess workers compensation insurance) multiplied by the applicable financial factor (percentage) assigned to the financial ratio summarization in subsection (c)(3)(A)(i).~~
 ii) ~~If the employer submits financial statements which are not audited, the security shall be in an amount equal to the full loss fund size multiplied by 125 percent.~~
 iii) ~~If the employer self administers its workers' compensation claims program, a factor of 120% is applied to the formulas used in subsections (i) and (ii) above to cover the contingent claims cost in the event of insolvency.~~

B) Security/Loss Fund Determination No Aggregate Excess Liability Coverage

- i) Where the employer if the employer has no aggregate excess workers' compensation insurance coverage and submits audited financial statements, the security requirement shall be determined by using the highest amount of security obtained after applying the following formulas:

RESERVE FORMULA (a) Reserve formula:

Total outstanding loss reserves are multiplied by the applicable trending factor. In the event that an employer's losses are affected by growth or size of the entity, the losses will be equalized. The following formula is then applied:

total outstanding loss reserves (loss fund) x applicable trending factor x applicable financial factor = security.

PAID LOSS FORMULA (b) Paid loss formula:

Paid losses for up to each of the last 5 years are multiplied by the applicable trending factors. The total of paid losses is divided by the number of years used to obtain the average yearly paid loss. However, in the event that an employer's losses are affected by growth or size of the entity, the losses will be equalized. The following formula is then applied:

average yearly paid loss (loss fund) x applicable

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trending factor x applicable financial factor = security.

- ii) If the employer has no aggregate excess workers' compensation insurance coverage and submits financial statements which are not audited, the security requirements shall be determined by using the highest amount of security obtained after applying the following formulas:

RESERVE FORMULA (a) Reserve formula:

total outstanding loss reserves (loss fund) x applicable trending factor x 125% = security.

PAID LOSS FORMULA (b) Paid loss formula:

Paid losses for up to each of the last 5 years are multiplied by the applicable trending factors. The total of paid losses is divided by the number of years used to obtain the average yearly paid loss. The following formula is then applied:

average yearly paid loss (loss fund) x applicable trending factor x 125% = security

- iii) Where the employer has aggregate excess insurance coverage, security may be based on the aggregate excess loss fund x applicable financial factor (percentage) assigned to the financial ratio summarization in subsection (c)(3)(A)(ii). If the employer submits financial statements which are not audited, the security shall be in an amount equal to the full aggregate excess loss fund multiplied by 125%.

- iv) If the employer self-administers its workers' compensation claims program, or if the claims administration contract with an outside administrator does not include service of claims on an incurred basis, a factor of 120% is applied to the formulas used in subsections (c)(3)(B)(i), and (ii) and iii above, to cover the contingent claims cost in the event of insolvency.

- v) All trending factors used in this subsection are adopted by resolution of the Board and are available from the Board or the Commission upon request. Trending factors are determined by reviewing the rates of inflation for self-insurance, including claim

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payments, both medical and indemnity, and costs of claim administration. The trending factor shall be determined after consultation with a Fellow of the Casualty Actuarial Society.

- C) The security requirement for self-insurers, who upon initial or renewal application for continuation of the privilege, earn less than 9 points after applying the financial ratios in subsection (c)(2)(A), shall be determined as a percentage of the loss fund size as follows:

Points Scored	Loss Fund Size	Percentage of Loss Fund	Minimum % of Increase of Current Security
6 - 8.9	0 - 250,000	130	
	250,001-500,000	120	
	500,001-1,000,000	110	
3 - 5.9	1,000,001 +	100	
	0 - 250,000	150	
	250,001-500,000	130	
0 - 2.9	500,001-1,000,000	120	
	1,000,001 +	110	
	0 - 250,000	200	
	250,001-500,000	175	
	500,001-1,000,000	150	
	1,000,001 +	130	

If the percentage of loss fund referred to above is less than 125% and the employer has submitted unaudited financial statements, the percentage of loss fund used will be 125%. In addition, if the employer self-administers its workers' compensation claims program or if the claims administration contract with an outside administrator does not include service of claims on an incurred basis, a factor of 120% is applied to cover the contingent claims cost in the event of insolvency.

- B) As part of the security to be submitted by a subsidiary, the subsidiary shall obtain a guarantee by the parent company that the obligations of the subsidiary under the Workers' Compensation Act and Workers' Occupational Diseases Act shall be paid. The guarantee shall be submitted on a form prescribed by the Commission. Whenever a self-insured parent or subsidiary subsequently changes ownership, it must

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~~Notice the Commission immediately~~

D)P No surety bond may be terminated unless the Chairman has received written notice of such prospective termination at least 60 days prior to the termination date.

E)S Deposits under escrow agreements shall be cash, negotiable United States government bonds or negotiable general obligation bonds of the State of Illinois. Such cash or bonds shall be deposited in escrow with any State or national bank or trust company having trust authority in the State of Illinois. ~~(Section 4(b) of the Act)~~ (Section 4(b) of the Act) All escrow agreements shall be on a form provided by the Commission. Securities used to fund an escrow account shall have at all times a market value at least equal to the security requirement determined by the Chairman.

F)H Alternative and additional means satisfactory to the Commission for securing the payment of workers' compensation obligations include but shall not be limited to a letter of credit approved by the Chairman. All letters of credit must be on a form prescribed by the Commission. ~~A letter of credit approved by the Chairman may be accepted as security. All letters of credit must be on a form prescribed by the Commission.~~

G) As an alternative to posting security, the Chairman will consider allowing an employer who qualifies for self insurance to provide an indemnification agreement which is unlimited in amount to the Self-Insurers Security Fund for payments and expenses the fund incurs as a result of the failure of the employer to make workers' compensation payments as they become due under the Acts. The indemnitor must be an insurance company, not related to or affiliated with the self-insured employer, that is authorized to do business in this State. The Chairman reserves the right to make a determination as to the acceptability of the indemnitor and the content of the agreement.

4) Guarantee Agreement

A subsidiary or a controlled employer shall obtain a guarantee agreement executed by the parent company or controlling person(s) designated by the Commission. Pursuant to said agreement, the parent company or the controlling person(s) shall guarantee that the obligations of the subsidiary or the controlled employer under the Workers' Compensation Act and the Workers' Occupational Diseases Act shall be paid. The guarantee agreement shall be submitted on a form prescribed by the Commission. Whenever a guarantor under such an agreement ceases to be a parent company, or controlling person(s) with respect to the subsidiary or controlled employer whose obligations it has guaranteed, the former parent company and subsidiary or controlling person(s) and

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controlled employer shall notify the Commission immediately. Notwithstanding any other provisions of this rule, if the Board determines that a controlled person or subsidiary is controlled by an alien controlling person or parent company or is a utility, the Chairman may, in his or her discretion, waive the requirement that the controlled employer or subsidiary provide a guarantee agreement; provided, that the controlled employer or subsidiary or utility shall furnish to the Commission security in an amount to be determined by the same methods used when an unaudited financial statement has been provided pursuant to subsection (c)(3)(B)(ii). "Alien controlling person or parent company" means a controlling person or parent company created or organized under the laws of a jurisdiction other than the United States of America or any political subdivision thereof.

d) Decision

Within 45 days after receipt of an initial application or application to renew (continue) the self-insurance privilege, the Board shall advise the Chairman of its recommendations regarding the disposition of that initial or renewal application. If the Chairman disagrees with any of the Board's recommendations, the Chairman shall, within 30 days after receipt of the Board's recommendations, notify the Board of the reasons in support of the decision. The Chairman shall also promptly notify the employer of the decision within 15 days after receipt of the recommendation of the Board. (Section 4(j) of the Act)

1) Approval

A) The Chairman shall notify the applicant in writing that it has been ~~conditionally~~ approved as a self-insurer. Approval may ~~will~~ be conditioned upon the furnishing of appropriate requirements to be met, including, but not limited to, the furnishing of security and the basis therefor, obtaining appropriate excess liability or catastrophe insurance, and submission of an appropriate claims administration and loss control program.

B) Within 60 days after receipt of the notice described in subsection (d)(1)(A), the conditionally approved employer shall comply with all of the requirements of conditional approval as stated in the notice. The Chairman shall then issue a certificate of approval as a self-insurer. The effective date of self-insurance shall be set forth in the certificate of approval.

C) Failure of the conditionally approved employer to comply with all requirements of conditional approval within 60 days after receipt of the notice in subsection (d)(1)(A) or to file a request for reconsideration pursuant to subsection (f) below shall cause the Chairman to issue an order denying the request for approval as a self-insurer. Such order shall be subject to review pursuant to subsection (h) below.

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employer of any change in the security requirement or of his intent to terminate the self-insurance privilege and the reasons therefor. The notice shall set forth a time and place of hearing on the matter, within 30 days after the date of the notice at which the employer must show cause why the security should not be adjusted or why the self-insurance privilege should not be terminated. The Chairman shall notify the employer of the decision in writing after the hearing date. Such decisions shall be subject to review pursuant to subsection (h) below.

3) Failure of a self-insurer to comply with a request for additional information, without good cause, may cause the Chairman to initiate proceedings to terminate the self-insurance privilege.

f) Petition for Reconsideration

1) Within 21 days after receipt of a notice of conditional approval or a notice that the employer's initial or renewal application does not warrant approval of the self-insurance privilege, the employer may file a petition for reconsideration of the Chairman's determination.

2) The petition for reconsideration shall be made in writing and must state the reasons why the Chairman should reconsider the decision.

3) The petition shall be accompanied by any documents which support the employer's position, and, if applicable, any information not previously considered. Such information may include, but is not limited to, evidence of an improving financial condition which was not available to the Board when the application was reviewed.

4) Request for Hearing

A) The employer may request a hearing on the petition for reconsideration. The request for hearing must be filed with the request for reconsideration.

B) Upon the filing of a timely petition for reconsideration and request for hearing as defined in subsection (f)(1) above, the Chairman shall issue a notice which sets forth a place and time of hearing within 30 days after the date of the notice.

C) Hearings on the petition for reconsideration shall be conducted in accordance with subsection (g) below.

D) In the absence of a request for hearing, the Chairman may consider all matters at issue from the petition for reconsideration and accompanying documentation.

5) The Chairman shall issue an order notifying the employer of his final decision and the reasons therefor. Such order shall be subject to review pursuant to subsection (h) below.

g) Conduct of Hearings

1) All hearings under this Section shall be conducted by the Chairman or Commissioner designated by the Chairman.

2) All hearings shall be conducted in accordance with the requirements of Article 10 of the Administrative Procedure Act [5

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a notice which sets forth a place and time of hearing within 30 days after the date of the notice at which the employer must show cause why the self-insurance application should not be rejected and the self-insurance privilege denied and/or terminated. The Chairman shall notify the employer of the decision in writing after the hearing date. Nothing herein shall bar the employer from reapplying for approval as a self-insurer.

2) Denial

A) The Chairman shall notify the employer in writing that the employer's initial or renewal application and financial statement do not warrant approval of the self-insurance privilege. The notice shall set forth the reasons why the employer's application for approval as a self-insurer should be denied. The notice shall also set forth a place and a time of hearing within 30 days after the date of the notice at which the employer must show cause why the self-insurance privilege should not be denied and/or terminated.

B) Failure of the employer to file a request for reconsideration pursuant to subsection (f) below shall cause the Chairman to issue an order denying the request for approval as a self-insurer. Such order shall be subject to review pursuant to subsection (h) below. If the Chairman determines that the request for self-insurance should be denied after the hearing date the Chairman shall issue an order denying the request for approval as a self-insurer. The order shall set forth the reasons for the denial.

C) When the Chairman denies an application for renewal of the self-insurance privilege, nothing herein shall bar an employer from reapplying for approval as a self-insurer. Such re-application shall be considered an initial application and must qualify under subsection (c)(2).

e) Additional Information

1) The Chairman may at any time, on his own initiative or at the request of the Board, require a self-insurer to file additional information related to the self insurers' ability to adequately secure payment of its financial obligations under the Workers' Compensation Act and Workers' Occupational Diseases Act. Such information shall include, but not be limited to, information related to the employer's financial condition, the employer's ability to provide an adequate claims administration, loss control, or safety program, and to provide adequate excess insurance coverage.

2) Upon review of the additional information, if the Chairman finds, after consultation with the Board, that the security furnished by the self-insurer should be adjusted or that the self-insurance privilege should be terminated, the Chairman shall notify the

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ILCS 100/Art. 10].

3) At the hearing, the employer shall have the right to respond and to call witnesses, cross-examine witnesses and present evidence. ~~to show why the chairman should not deny or terminate the self-insurance privilege or adjust the security.~~

4) The Commission, or any member thereof, shall have the power to administer oaths, to subpoena and examine witnesses and issue subpoena duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issues of denial or termination of the self-insurance privilege or adjustment of the security. ~~(Ill. Rev. Stat., 1989, ch. 48, par. 130-16) (820 ILCS 305/16)~~

5) The Illinois common law rules of evidence and Article VIII of the Code of Civil Procedure ~~(Ill. Rev. Stat., 1989, ch. 110, par. 8-101-et-seq.)~~ [35 ILCS 5/Art. VIII 8-101-et-seq.] shall apply at the hearing.

h) Appeal

All orders made by the Chairman under Section 4(j) of the Act shall be subject to review in the same manner and within the same time as provided by subsection (f) of Section 19 of the Act for review of awards and decisions of the Commission. (Section 4(j) of the Act)

(Source: Amended at 20 Ill. Reg. 3826, effective

February 1, 1996)

INDUSTRIAL COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pre-Arbitration
- 2) Code Citation: 50 Ill. Adm. Code 7020
- 3) Section Numbers: Adopted Action:
7020.60 Amendment
- 4) Statutory Authority: Sections 16 and 19 of the Workers' Compensation Act [820 ILCS 305/16 and 19]
- 5) Effective Date of Rulemaking: February 15, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: February 15, 1996
- 9) Notice of Proposal Published in Illinois Register: September 8, 1995 at 19 Ill. Reg. 12577
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment deletes language relating to failure of a party to appear on the trial date in cases which have been on file for three or more years.

Section 7030.20, Setting a Case for Trial, has been amended to include language regarding failure of a party to appear on the trial date in all cases, including those which have been on file for three or more years.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Kathryn Kelley
Counsel
Industrial Commission
100 West Randolph

INDUSTRIAL COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Suite 8-272
Chicago, IL 60601
(312) 814-6559

The full text of the Adopted Amendment begins on the next page:

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TITLE 50: INSURANCE
CHAPTER II: INDUSTRIAL COMMISSION

PART 7020
PRE-ARBITRATION

Section	
7020.10	Docketing and Numbering of Cases
7020.20	Application for Adjustment of Claim
7020.30	Memorandum of Names and Addresses for Service of Notice and Attorneys' Appearance
7020.40	Who May Appear-Unauthorized Practice
7020.50	Hearing: Place; Notice: Change of Venue
7020.60	Continuances on Arbitration, Notices, Monthly Status Call, Voluntary Dismissal
7020.70	Motion Practice, General
7020.80	Petitions for Immediate Hearing
7020.90	Petitions to Reinstate
7020.100	Medical Examinations

AUTHORITY: Implementing and authorized by Sections 16 and 19 of the Workers' Compensation Act [820 ILCS 305/16 and 19].

SOURCE: Filed and effective March 1, 1977; amended at 2 Ill. Reg. 49, p. 244, effective December 7, 1978; amended at 3 Ill. Reg. 4, p. 13, effective January 21, 1979; amended at 4 Ill. Reg. 26, p. 59, effective July 1, 1980; emergency amendment at 4 Ill. Reg. 41, p. 171, effective September 25, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 5530, effective May 12, 1981; emergency amendment at 6 Ill. Reg. 5820, effective May 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 1, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2345; emergency amendment 8 Ill. Reg. 5986, effective August 16, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 16238, effective October 15, 1985; emergency amendment at 9 Ill. Reg. 19129, effective November 20, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8096, effective May 5, 1986; amended at 15 Ill. Reg. 8221, effective May 17, 1991; amended at 17 Ill. Reg. 2206, effective February 16, 1993; amended at 20 Ill. Reg. 3842, effective February 16, 1993.

Section 7020.60 Continuances on Arbitration, Notices, Monthly Status Calls, Voluntary Dismissal

a) Continuances on Arbitration: Notices

Written notices will be sent to the parties for the initial status call setting on arbitration only. Thereafter, cases will be continued for 3 month intervals, or at other intervals upon notice by the Commission, until the case has been on file at the Industrial Commission for 3 years, has been set for trial pursuant to Section

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7030.20, or otherwise disposed of. The parties must obtain any continued status call dates from the Industrial Commission records.

b) Monthly Status Calls

- 1) Each Arbitrator, subject to his or her availability, shall hold a monthly status call of cases which appear on the Arbitrator's docket that month.

A) In Cook County, each Arbitrator's monthly status call shall be held at 2:00 p.m. on a date and place designated by the Commission.

B) In areas outside of Cook County, each Arbitrator's monthly status call shall be held at 9:00 a.m. on a date and place designated by the Commission.

- 2) The monthly status call shall be conducted by the Arbitrator as follows:

A) Cases shall be called in the order that they appear on the monthly status call.

B) Cases will be continued in accordance with subsection (a) above unless a request for a trial date is made in accordance with Section 7030.20. A request for a trial date may be made in a case which does not appear on the monthly status call if:

- i) a Petition under Section 19(b) of the Act has been filed in accordance with Section 7020.80(a);
- ii) death benefits under Section 7 of the Act or permanent total disability benefits under Section 8 of the Act are claimed; or
- iii) special circumstances exist which in the opinion of the Arbitrator would warrant advancing the case for trial. The moving party must set forth in his motion the basis of the claimed special circumstance.

Motions for trial dates under subsections (b)(2)(B)(i), (ii) and (iii) above shall be presented at the conclusion of the status call.

- C) Cases on file 3 or more years.

i) In all cases which have been on file at the Industrial Commission for three years or more, the parties or their attorneys must be present at each status call on which the case appears. The case will be set for trial unless a written request has been made to continue the case for good cause. Such request shall be made part of the case file. The written request must be received by the Arbitrator at least fifteen days in advance of the status call date and contain proof of service showing that the request for a continuance was served on all other parties to the case and/or their attorneys. Any objection to a continuance in such case must be received by the Arbitrator at least seven days prior to the status

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call date and contain a similar proof of service. The Arbitrator shall rule on such requests for continuances or objections thereto at the status call. The parties must appear at the status call even if there is no objection to the continuance.

- ii) Failure of the Petitioner or the Petitioner's attorney to request or answer a request for a continuance in accordance with subsection (b)(2)(C)(i) above and to appear at the monthly status call on which the case appears shall result in the case being dismissed for want of prosecution, except upon a showing of good cause.

iii) Where the Arbitrator has set the matter for trial, the case shall proceed on the date set by the Arbitrator. ~~Failure of the Petitioner to appear without good cause on the trial date shall result in dismissal of the case for want of prosecution. Failure of the Respondent to appear without good cause on the trial date may result in an ex parte hearing on the merits of the claim.~~

- D) Section 19(b-1) pretrials, motions, pro se settlement contracts

i) In Cook County, each Arbitrator will hear motions and conduct pre-trial hearings on Petitions filed under Section 19(b-1) of the Act beginning at 8:45 a.m. on the monthly status call date. The Arbitrator shall hear other motions at the conclusion of the monthly status call. Pro se settlements may be presented on the morning of any monthly status call or on days designated by the Arbitrator.

ii) In all areas outside of Cook County, the Arbitrator will hear motions and conduct pre-trial hearings on Petitions filed under Section 19(b-1) of the Act, and hear other motions, at the conclusion of the monthly status call. Pro se settlement contracts may be presented at the conclusion of any monthly status call or on days designated by the Arbitrator.

- c) Voluntary Dismissals

- 1) Any party may voluntarily dismiss his or her claim or any petition or motion filed on his or her behalf upon motion signed by the party, if unrepresented, or his or her attorney of record.
- 2) A party may file a motion to dismiss his or her claim or any petition or motion filed on his or her behalf without the signature of his attorney of record. The moving party must serve said motion on his or her attorney and the opposing party, in the manner set forth in Section 7020.20(a), and set the motion for hearing as set forth in Section 7020.70. In such cases, there shall be no disposition of the claim on its merits prior to the

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disposition of said motion.

(Source: Amended at 20 Ill. Reg. effective
FEB 15 1996)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Organic Material Emission Standards Limitations for the Metro East Area
- 2) Code Citation: 35 Ill. Adm. Code 219
- 3) Section Numbers: Adopted Action:
219.585 Amended
Appendix E Amended
- 4) Statutory Authority: Implementing Sections 5, 21, 21.1, 22, and 22.17, and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1994, ch. 111 1/2 pars. 1005, 1021, 1021.1, 1022, 1022.17, and 1027) [415 ILCS 5/5, 21, 21.1, 22, 22.17 and 27]
- 5) Effective Date of Rulemaking: February 15, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: September 6, 1995
- 9) Notice of Proposal Published in Illinois Register: October 13, 1995, 19 Ill. Reg. 14267
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes have been agreed upon.
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes (R95-10)
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Establish a uniform annual date of June 1 upon which all regulated gasoline facilities must comply with 7.2 psi Reid Vapor Pressure.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Audrey Lozuk-Lawless
Illinois Pollution Control Board
P.O. Box 505

POLLUTION CONTROL BOARD

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DeKalb, IL 60115
(815)753-0947

The full text of the Adopted Amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSIONS STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 219

ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS
FOR THE METRO EAST AREA

SUBPART A: GENERAL PROVISIONS

Section		Control or
219.100	Introduction	
219.101	Savings Clause	
219.102	Abbreviations and Conversion Factors	
219.103	Applicability	
219.104	Definitions	
219.105	Test Methods and Procedures	
219.106	Compliance Dates	
219.107	Operation of Afterburners	
219.108	Exemptions, Variations, and Alternative Means	of
	Compliance Determinations	Control
219.109	Vapor Pressure of Volatile Organic Liquids	or
219.110	Vapor Pressure of Organic Material or Solvents	
219.111	Vapor Pressure of Volatile Organic Material	
219.112	Incorporations by Reference	
219.113	Monitoring for Negligibly-Reactive Compounds	

SUBPART B: ORGANIC EMISSIONS FROM STORAGE AND LOADING OPERATIONS

Section	
219.119	Applicability for VOL
219.120	Control Requirements for Storage Containers of VOL
219.121	Storage Containers of VPL
219.122	Loading Operations
219.123	Petroleum Liquid Storage Tanks
219.124	External Floating Roofs
219.125	Compliance Dates
219.126	Compliance Plan (Repealed)
219.127	Testing VOL Operations
219.128	Monitoring VOL Operations
219.129	Recordkeeping and Reporting for VOL Operations

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

Section	
219.141	Separation Operations

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219.142 Pumps and Compressors
 219.143 Vapor Blowdown
 219.144 Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section

219.181 Solvent Cleaning in General
 219.182 Cold Cleaning
 219.183 Open Top Vapor Degreasing
 219.184 Conveyorized Degreasing
 219.185 Compliance Schedule (Repealed)
 219.186 Test Methods

SUBPART F: COATING OPERATIONS

Section

219.204 Emission Limitations
 219.205 Daily-Weighted Average Limitations
 219.206 Solids Basis Calculation
 219.207 Alternative Emission Limitations
 219.208 Exemptions from Emission Limitations
 219.209 Exemption from General Rule on Use of Organic Material
 219.210 Compliance Schedule
 219.211 Recordkeeping and Reporting
 219.212 Cross-Line Averaging to Establish Compliance for Coating Lines
 219.213 Recordkeeping and Reporting for Cross-Line Averaging Participating Coating Lines
 219.214 Changing Compliance Methods

SUBPART G: USE OF ORGANIC MATERIAL

Section

219.301 Use of Organic Material
 219.302 Alternative Standard
 219.303 Fuel Combustion Emission Units
 219.304 Operations with Compliance Program

SUBPART H: PRINTING AND PUBLISHING

Section

219.401 Flexographic and Rotogravure Printing
 219.402 Applicability
 219.403 Compliance Schedule
 219.404 Recordkeeping and Reporting
 219.405 Lithographic Printing: Applicability
 219.406 Provisions Applying to Heatset Web Offset Lithographic Printing Prior to March 15, 1996

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219.407 Emission Limitations and Control Requirements for Lithographic Printing Lines On and After March 15, 1996
 219.408 Compliance Schedule for Lithographic Printing on and After March 15, 1996
 219.409 Testing for Lithographic Printing On and After March 15, 1996
 219.410 Monitoring Requirements for Lithographic Printing
 219.411 Recordkeeping and Reporting for Lithographic Printing

SUBPART Q: LEAKS FROM SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING PLANT

Section

219.421 General Requirements
 219.422 Inspection Program Plan for Leaks
 219.423 Inspection Program for Leaks
 219.424 Repairing Leaks
 219.425 Recordkeeping for Leaks
 219.426 Report for Leaks
 219.427 Alternative Program for Leaks
 219.428 Open-Ended Valves
 219.429 Standards for Control Devices
 219.430 Compliance Date (Repealed)
 219.431 Applicability
 219.432 Control Requirements
 219.433 Performance and Testing Requirements
 219.434 Monitoring Requirements
 219.435 Recordkeeping and Reporting Requirements
 219.436 Compliance Date

SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES; ASPHALT MATERIALS

Section

219.441 Petroleum Refinery Waste Gas Disposal
 219.442 Vacuum Producing Systems
 219.443 Wastewater (Oil/Water) Separator
 219.444 Process Unit Turnarounds
 219.445 Leaks: General Requirements
 219.446 Monitoring Program Plan for Leaks
 219.447 Monitoring Program for Leaks
 219.448 Recordkeeping for Leaks
 219.449 Reporting for Leaks
 219.450 Alternative Program for Leaks
 219.451 Sealing Device Requirements
 219.452 Compliance Schedule for Leaks
 219.453 Compliance Dates (Repealed)

SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

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Section	
219.461	Manufacture of Pneumatic Rubber Tires
219.462	Green Tire Spraying Operations
219.463	Alternative Emission Reduction Systems
219.464	Emission Testing
219.465	Compliance Dates (Repealed)
219.466	Compliance Plan (Repealed)
SUBPART T: PHARMACEUTICAL MANUFACTURING	
Section	
219.480	Applicability
219.481	Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
219.482	Control of Air Dryers, Production Equipment Exhaust Systems and Filters
219.483	Material Storage and Transfer
219.484	In-Process Tanks
219.485	Leaks
219.486	Other Emission Units
219.487	Testing
219.488	Monitoring for Air Pollution Control Equipment
219.489	Recordkeeping for Air Pollution Control Equipment
SUBPART V: BATCH OPERATIONS AND AIR OXIDATION PROCESSES	
Section	
219.500	Applicability for Batch Operations
219.501	Control Requirements for Batch Operations
219.502	Determination of Uncontrolled Total Annual Mass Emissions and Actual Weighted Average Flow Rate Values for Batch Operations
219.503	Performance and Testing Requirements for Batch Operations
219.504	Monitoring Requirements for Batch Operations
219.505	Reporting and Recordkeeping for Batch Operations
219.506	Compliance Date
219.520	Emission Limitations for Air Oxidation Processes
219.521	Definitions (Repealed)
219.522	Savings Clause
219.523	Compliance
219.524	Determination of Applicability
219.525	Emission Limitations for Air Oxidation Processes (Renumbered)
219.526	Testing and Monitoring
219.527	Compliance Date (Repealed)
SUBPART W: AGRICULTURE	
Section	
219.541	Pesticide Exception

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SUBPART X: CONSTRUCTION

Section	
219.561	Architectural Coatings
219.562	Paving Operations
219.563	Cutback Asphalt
SUBPART Y: GASOLINE DISTRIBUTION	
Section	
219.581	Bulk Gasoline Plants
219.582	Bulk Gasoline Terminals
219.583	Gasoline Dispensing Operations - Storage Tank Filling Operations
219.584	Gasoline Delivery Vessels
219.585	Gasoline Volatility Standards
219.586	Gasoline Dispensing Operations - Motor Vehicle Fueling Operations (Repealed)

SUBPART Z: DRY CLEANERS

Section	
219.601	Perchloroethylene Dry Cleaners
219.602	Exemptions
219.603	Leaks
219.604	Compliance Dates (Repealed)
219.605	Compliance Plan (Repealed)
219.606	Exception to Compliance Plan (Repealed)
219.607	Standards for Petroleum Solvent Dry Cleaners
219.608	Operating Practices for Petroleum Solvent Dry Cleaners
219.609	Program for Inspection and Repair of Leaks
219.610	Testing and Monitoring
219.611	Exemption for Petroleum Solvent Dry Cleaners
219.612	Compliance Dates (Repealed)
219.613	Compliance Plan (Repealed)

SUBPART AA: PAINT AND INK MANUFACTURING

Section	
219.620	Applicability
219.621	Exemption for Waterbase Material and Heatset- Offset Ink
219.623	Permit Conditions
219.624	Open-Top Mills, Tanks, Vats or Vessels
219.625	Grinding Mills
219.626	Storage Tanks
219.628	Leaks
219.630	Clean Up
219.636	Compliance Schedule
219.637	Recordkeeping and Reporting

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SUBPART BB: POLYSTYRENE PLANTS

Section
219.640 Applicability
219.642 Emissions Limitation at Polystyrene Plants
219.644 Emissions Testing

SUBPART FF: BAKERY OVENS

Section
219.720 Applicability
219.722 Control Requirements
219.726 Testing
219.727 Monitoring
219.728 Recordkeeping and Reporting
219.729 Compliance Date
219.730 Certification

SUBPART GG: MARINE TERMINALS

Section
219.760 Applicability
219.762 Control Requirements
219.764 Compliance Certification
219.766 Leaks
219.768 Testing and Monitoring
219.770 Recordkeeping and Reporting

SUBPART HH: MOTOR VEHICLE REFINISHING

Section
219.780 Emission Limitations
219.782 Alternative Control Requirements
219.784 Equipment Specifications
219.786 Surface Preparation Materials
219.787 Work Practices
219.788 Testing
219.789 Monitoring and Recordkeeping for Control Devices
219.790 General Recordkeeping and Reporting
219.791 Compliance Date
219.792 Registration
219.875 Applicability of Subpart BB (Renumbered)
219.877 Emissions Limitation at Polystyrene Plants (Renumbered)
219.879 Compliance Date (Repealed)
219.881 Compliance Plan (Repealed)
219.883 Special Requirements for Compliance Plan (Repealed)
219.886 Emissions Testing (Renumbered)

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SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT MANUFACTURING PROCESSES

Section
219.920 Applicability
219.923 Permit Conditions
219.926 Control Requirements
219.927 Compliance Schedule
219.928 Testing

SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING PROCESSES

Section
219.940 Applicability
219.943 Permit Conditions
219.946 Control Requirements
219.947 Compliance Schedule
219.948 Testing

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING PROCESSES

Section
219.960 Applicability
219.963 Permit Conditions
219.966 Control Requirements
219.967 Compliance Schedule
219.968 Testing

SUBPART TT: OTHER EMISSION UNITS

Section
219.980 Applicability
219.983 Permit Conditions
219.986 Control Requirements
219.987 Compliance Schedule
219.988 Testing

SUBPART UU: RECORDKEEPING AND REPORTING

Section
219.990 Exempt Emission Units
219.991 Subject Emission Units

APPENDIX A List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
APPENDIX B VOM Measurement Techniques for Capture Efficiency
APPENDIX C Reference Methods and Procedures
APPENDIX D Coefficients for the Total Resource Effectiveness Index (TRE) Equation

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APPENDIX E List of Affected Marine Terminals
 APPENDIX G TRE Index Measurements for SOCM I Reactors and Distillation Units
 APPENDIX H Baseline VOM Content Limitations for Subpart F, Section 219.212 Cross-Line Averaging

AUTHORITY: Implementing Section 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28.5].

SOURCE: Adopted in R91-8 at 15 Ill. Reg. 12491, effective August 16, 1991; amended in R91-24 at 16 Ill. Reg. 13597, effective August 24, 1992; amended in R91-30 at 16 Ill. Reg. 13883, effective August 24, 1992; emergency amendment in R93-12 at 17 Ill. Reg. 8295, effective May 24, 1993, for a maximum of 150 days; amended in R93-9 at 17 Ill. Reg. 16918, effective September 27, 1993 and October 21, 1993; amended in R93-28 at 18 Ill. Reg. 4242, effective March 3, 1994; amended in R94-12 at 18 Ill. Reg. 14987, effective September 21, 1994; amended in R94-15 at 18 Ill. Reg. 16415, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16980, effective November 15, 1994; emergency amendment in R95-10 at 19 Ill. Reg. 3059, effective February 28, 1995, for a maximum of 150 days; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6958, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7385, effective May 22, 1995; amended ~~FEB 16 1996~~ at 20 Ill. Reg. ~~5848~~, effective ~~5848~~.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses, subscript are denoted by brackets, and SUM means the summation series or sigma function as used in mathematics.

SUBPART Y: GASOLINE DISTRIBUTION

Section 219.585 Gasoline Volatility Standards

- a) No person shall sell, offer for sale, dispense, supply, offer for supply, or transport for use in Illinois gasoline whose Reid vapor pressure exceeds the applicable limitations set forth in subsections (b) and (c) below during the regulatory control periods, which shall be June 1 to September 15 ~~for--retail--outlets--and--wholesale purchaser--consumer--facilities--and--from--May-1-to-September-15--for-all other--facilities.~~
- b) The Reid vapor pressure of gasoline, a measure of its volatility, shall not exceed 7.2 psi (49.68 kPa) during the regulatory control period in 1995 and each year thereafter.
- c) The Reid vapor pressure of ethanol blend gasolines having at least nine percent (9%) but not more than ten percent (10%) ethyl alcohol by volume of the blended mixture, shall not exceed the limitations for

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gasoline set forth in subsection (b) of this Section by more than 1.0 psi (6.9 kPa). Notwithstanding this limitation, blenders of ethanol blend gasolines whose Reid vapor pressure is less than 1.0 psi above the base stock gasoline immediately after blending with ethanol are prohibited from adding butane or any product that will increase the Reid vapor pressure of the blended gasoline.

d) All sampling of gasoline required pursuant to the provisions of this Section shall be conducted in accordance with the procedures contained in 40 CFR Part 80, Appendix D, Sampling Procedures for Fuel Volatility, which are incorporated by reference in Section 219.112 of this Part.

e) The Reid vapor pressure of gasoline shall be measured in accordance with the procedures contained in "Tests for Determining Reid Vapor Pressure (RVP) of Gasoline and Gasoline-Oxygenate Blends" as set forth in 40 CFR 80, Appendix E, incorporated by reference in 35 Ill. Adm. Code 219.112 of this Part.

f) The ethanol content of ethanol blend gasolines shall be determined by use of one of the approved testing methodologies specified in 40 CFR Part 80, Appendix F, incorporated by reference in 35 Ill. Adm. Code 219.112 of this Part.

g) Any alternate to the sampling or testing methods or procedures contained in subsections (d), (e), and (f) of this Section must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of one or more approved test methods or procedures. Such data shall accompany any request for Agency approval of any alternate test procedure. If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test methods or will achieve results equivalent to the approved test methods or procedures, the Agency shall approve the proposed alternative.

h) Recordkeeping and reporting:

- 1) Each refiner or supplier that distributes gasoline or ethanol blends shall:

A) During the regulatory control period, state that the Reid vapor pressure of all gasoline or ethanol blends leaving the refinery or distribution facility for use in Illinois complies with the Reid vapor pressure limitations set forth in 35 Ill. Adm. Code 219.585(b) and (c) of this Part. Any source receiving this gasoline shall be provided with a copy of an invoice, bill of lading, or other documentation used in normal business practice stating that the Reid vapor pressure of the gasoline complies with the State Reid vapor pressure standard.

B) Maintain records for a period of three years on the Reid vapor pressure, quantity shipped and date of delivery of any gasoline or ethanol blends leaving the refinery or distribution facility for use in Illinois. The Agency shall

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be provided with copies of such records if requested.

- 2) Records and reports required by subsections (h)(2)(A) and (h)(2)(B) below shall be made available to the Agency upon request. During the regulatory control period, the owner or operator of a gasoline dispensing operation subject to this Section shall:

- A) Retain a copy of an invoice, bill of lading, or other documentation used in normal business practice stating that the Reid vapor pressure of the gasoline complies with the State Reid vapor pressure standard as provided in subsection (h)(1)(A) above; and
- B) Maintain records for a period of three years on the Reid vapor pressure, quantity received and date of delivery of any gasoline or ethanol blends arriving at the gasoline operation.

(Source: Amended at 20 Ill. Reg. 3848, effective

FEB 1 1991)

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Section 219.APPENDIX E List of Affected Marine Terminals

The following table identifies the expected volatile organic material (VOM) emission reductions, in pounds per day in 1996, from the control of the marine vessel loading of gasoline and crude oil from the listed sources, their successors, and assigns. Such reduction of VOM emissions must occur after November 1990 and may not include reductions resulting from compliance with any federally required controls or from any measures included in any State Implementation Plan adopted by the State of Illinois to satisfy any other Clean Air Act requirement.

Facility	Permit#	Reduction
Phillips Pipeline Co. Facility ID # 163020AAB	73040515014	10
Clark Oil and Refining Corp. Facility ID # 197809AAA 119050AAA	72110678053	468
Marathon Pipe Line Co. Facility ID # 119050AAF	73021451001	2,417
Conoco Pipe Line Co. Facility ID # 119050AAK	73031095011	2,759
Shell Oil Co. Facility ID # 119090AAA	87120058128	7,554
Amoco Distribution Center Facility ID # 119115AAV	73020080007	10,443

3848

(Source: Amended at 20 Ill. Reg. 3848, effective

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1) Heading of the Part: Commercial Driver Training Schools2) Code Citation: 92 Ill. Adm. Code 10603) Section Numbers Adopted Action

1060.50	Amendment
1060.70	Amendment
1060.80	Amendment
1060.110	Amendment
1060.120	Amendment
1060.140	Amendment
1060.170	Amendment
1060.180	Amendment
1060.190	Amendment
1060.200	Amendment

4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and Chapter 6 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch.6].5) Effective Date of Amendments: February 14, 19966) Does this rulemaking contain an automatic repeal date? No7) Does this amendment contain incorporations by reference? No8) Date Filed in Agency's Principal Office: February 14, 19969) Notice of Proposal Published in Illinois Register: 19 Ill. Reg. 14365 (October 13, 1995).10) Has JCAR Issued a Statement of Objections to this Rule? No11) Differences between proposal and final version: Pursuant to suggestions from the Joint Committee on Administrative Rules, all stylistic and typographical changes were duly incorporated.12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the Agreement Letter issued by JCAR? Yes13) Will this rule replace any Emergency Rule(s) currently in effect? No14) Are there any other amendments pending on this Part? No15) Summary and Purpose of Rule: This rulemaking is being proposed for amendment pursuant to P.A. 88-628, which prevents a driving instructor

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from obtaining a Certificate of Completion for a student, unless the student has received passing grades in 8 courses during the previous 2 semesters; also prevents dropouts under age 18 from obtaining a Certificate of Completion, unless the instructor has written verification of enrollment in a GED or alternative or has, prior to dropping out, passed 8 courses in the previous 2 semesters, or has written consent from the dropout's parents or guardian. The Superintendent of Schools may waive conditions if in the best interests of the student or dropout. The driving instructor must check with the school to determine if a student is eligible. In addition, other amendments to these Sections are proposed to reflect current practices and procedures.

16) Information and answers to questions regarding this Adopted Rule should be directed to:

Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, IL 62723
(217) 782-5356

The full text of the Adopted Rule begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1060

COMMERCIAL DRIVER TRAINING SCHOOLS

- Section
- 1060.5 Definitions
- 1060.10 Unlicensed Person May Not Operate Driver Training School
- 1060.20 Requirements for School Licenses
- 1060.30 Driver Training Schools Names
- 1060.40 Refund of Application Fees
- 1060.50 School Locations and Facilities
- 1060.60 Driver Training School Student Instruction Record
- 1060.70 Driver Training School Course of Instruction
- 1060.80 Driver Training School Contracts
- 1060.90 Inspection of School Facilities
- 1060.100 Licenses
- 1060.110 Safety Inspection of Driver Training School Motor Vehicles
- 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License
- 1060.130 Examination for Driver Training Instructor
- 1060.140 Temporary Permit
- 1060.150 Driver Training School Responsibility for Employees
- 1060.160 Solicitation of Students and Pupils for Commercial Driver Training Instruction
- 1060.170 Hearings
- 1060.180 Teen Accreditation
- 1060.190 Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License and Instructor's License
- 1060.200 Commercial Driver's License and ~~and/or~~ Endorsement ~~and/or~~ Accreditation

AUTHORITY: Implementing Article IV of the Illinois Driver Licensing Law of the Illinois Motor Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and authorized by Section 2-104(b) of the Illinois Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 2, 1972; codified at 6 Ill. Reg. 12697; transferred from 23 Ill. Adm. Code 252.50 (State Board of Education) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-41 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-41] at 11 Ill. Reg. 1631, effective December 31, 1986; amended at 11 Ill. Reg. 17244, effective October 13, 1987; amended at 12 Ill. Reg. 13203, effective August 1, 1988; amended at 12 Ill. Reg. 19756, effective November 15, 1988; amended at 14 Ill. Reg. 8658, effective May 18, 1990; recodified at 17 Ill. Reg. 20006, effective November 3, 1993; amended at 18 Ill. Reg. 7788, effective May 9, 1994; amended at 20 Ill. Reg. **3861**, effective

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Section 1060.50 School Locations and Facilities

- a) Each driver training school must comply with Section 6-409 of the Illinois Vehicle Code [625 ILCS 5/6-409]. In addition, the branch classroom shall be identified as such by a permanent sign which indicates the location of the main office and classroom and which is reasonably visible to the general public from outside the branch classroom.
- b) The established place of business of each driver training school shall comply with Section 6-406 of the Illinois Vehicle Code [625 ILCS 5/6-406], and, in addition:
- 1) The main office and each branch office shall have a minimum of 150 square feet of office space; and
 - 2) Each school facility must post, in a conspicuous place, on or near the permanent school sign, the days and regular hours when open. A school shall not be deemed open for business unless at least one authorized representative of the school is present; and
 - 3) The main office and each branch office of the driver training school shall have direct access from the outside. Any business may be conducted in the same building providing the business being conducted is legal and that the business has its own entrance.
- c) The established place of business or branch office, branch classroom or advertised address of any driver training school shall comply with all restrictions contained in Section 6-405(b) of the Illinois Vehicle Code [625 ILCS 5/6-405].
- d) Each established Main Office and Branch Office facility must maintain a place of business which shall be open to the general public a minimum of eight (8) hours per week.
- e) The classroom facility shall contain the following:
- 1) Sufficient seating facilities and writing surfaces for students;
 - 2) Charts, diagrams, traffic control devices, or pictures relating to the operation of motor vehicles and traffic laws;
 - 3) Blackboards or other forms of illustrative devices which are visible from all seating areas;
 - 4) Textbooks, reference books and pamphlets relating to the proper operation of motor vehicles and traffic laws;
 - 5) Adequate fire extinguishers in operable condition as required pursuant to Section 6-406(c) of the Illinois Drivers Licensing Law of the Illinois Vehicle Code.
- f) Each main classroom or branch classroom shall have:
- 1) a minimum of 300 square feet of classroom space and the main classroom shall be within close proximity of the same premises as the main office facility;
 - 2) installed a heating and ventilating system adequate to maintain a comfortable room temperature for the occupants;

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- 3) installed an adequate lighting system so as to provide sufficient lighting for the occupants.

- g) A driver training school which has an established place of business and a main classroom facility may operate a branch classroom, provided it meets all requirements of the main classroom.

- 1) Upon receipt by the Department of a written request to open a branch classroom or branch office, an authorized representative of the Department shall inspect the branch office or branch classroom, and if it complies with the provisions of Section 6-406(e) of the Illinois Driver Licensing Law of the Illinois Vehicle Code and this part, the Department shall issue the appropriate license which must be displayed in a visibly prominent place in the branch facility.

- 2) When a branch facility is to be closed, the driver training school shall return the branch facility's license to the Secretary of State in a timely manner ~~within five (5) days--after closing.~~

(Source: Amended at 20 Ill. Reg. **3861**, effective February 1, 1986)

Section 1060.70 Driver Training School Course of Instruction

- a) A minimum of six (6) hours of classroom instruction and six (6) hours of behind-the-wheel instruction must be offered to each student who enrolls in any driver training school. If a student declines the classroom instruction, the school shall secure a signed statement from the student on forms prescribed by the Department, wherein such student states that he has been offered the six (6) hours of classroom instruction and declines the instruction. Such statements shall be kept with the student's instruction records.

- b) Classroom instruction shall be made available at least once each calendar month for students currently enrolled in the school and shall include instruction in safe driving practices in the operation of motor vehicles.

- c) The minimum of six (6) hours of behind-the-wheel instruction shall consist of actual driving practice while in a motor vehicle. Instruction given while the vehicle is parked shall not be recorded or be considered as classroom instruction. Behind-the-wheel instruction must only be given in a motor vehicle owned or leased by the Driver Training School which has been safety inspected by the Illinois Department of Transportation and has insurance which has been certified by the Department.

- d) The minimum of six (6) hours of classroom instruction shall be offered to all students enrolled for a regular course in any driver training school. Time spent by a student operating a driving simulator under the supervision of a licensed instructor may be counted as classroom instruction time, provided the student receives at least four (4)

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- e) hours of lectures or other instruction on safe driving practices. Students enrolled in a short review course need not comply with the minimum requirements stated above; however, no driver training school shall offer a short review course to any student who has never had a valid driver's license or a course in driver training and instruction which meets the minimum requirements prescribed above.

- f) Behind-the-wheel driving lessons, observation lessons, travel time, or any combination thereof, shall not exceed three (3) hours in length for any student in any 24 hour period, excluding time spent at a Driver's License Examination Facility for testing purposes. If more than one student is present in the training car (e.g., one student behind-the-wheel, one observing), the total combined time should not exceed three (3) hours, excluding time spent at a Driver's License Examination Facility for testing purposes. A driver training school providing training for a commercial driver's license is exempt from this requirement.

- g) Each driver training school must submit an "Enhanced Instruction Report" on a form prescribed by the Department showing the name, address, and number of behind-the-wheel instruction periods taken for every student who has had 25 hours of behind-the-wheel instruction. A supplementary "Enhanced Instruction Report" must be submitted after each additional ten (10) hours of instruction and a final report must be submitted within five (5) days after any such student completes his instruction. A driver training school providing training for a commercial driver's license is exempt from this requirement.

- h) A student must possess a current or valid instruction permit or valid driver's license unless exempted as provided by law before each and every behind-the-wheel lesson.

- i) The commercial driver training school instructor shall be responsible for verifying that each student has a valid instruction permit before each and every behind-the-wheel lesson.

(Source: Amended at 20 Ill. Reg. **3861**, effective February 1, 1986)

Section 1060.80 Driver Training School Contracts

- a) All written contracts or agreements between any driver training school and any individual or group for the sale, purchase, barter or exchange of any driving instruction or any classroom instruction, or the preparation of an applicant for examination given by the Department for a driver's license, must contain the following:

- 1) A statement indicating the agreed contract price per hour or lesson, and the terms of payment;
- 2) A statement that the agreement constitutes the entire contract between the school and the student, and no verbal assurances or promises not contained herein shall bind the school or the student;

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- 3) A statement concerning whether any additional charge is made for the use of the school vehicle in taking a driving test to obtain a driver's license;
- 4) A statement indicating whether behind-the-wheel instruction is to be in private or on a group basis or both;
- 5) A statement indicating the specific date and time when instruction is to begin, the hours of instruction and the location of the classroom; and
- 6) The name and address of the school and the student or entity, and the number and type of all licenses or permits to operate a motor vehicle held by the student; and
- 7) A statement indicating that all disputes under this Section be directed to the Secretary of State's Office.

b) If a contract or agreement between a driver training school and an individual for the sale, purchase, or charge for any driving instruction, or the preparation of an applicant for examination given by the Department for a driver's license, is not in writing, the driver training school shall file with the Department a written statement under oath indicating that all of its oral contracts and agreements have complied, and will comply, with the foregoing requirements. Such statement shall be filed when an application is made for a license to operate a driver's training school. A new statement shall also be filed when the school requests the renewal of its license.

c) The term "No Refund" and such a policy concerning student payments is not permitted in any driver training school contract. A driver training school may use the phrase: "The school will not refund any tuition or part of tuition if the school is capable and willing to perform its part of the contract."

d) No driver training school shall include any statement in any of its contracts or advertising to the effect that an Illinois driver's license is guaranteed or that free lessons will be given any student who fails to pass a driver's license test, except statements provided below are permissible:

- 1) "No additional charge will be made for instruction given to students of this school who fail to pass the driver's license test"; and
- 2) "Students who fail to pass the test will be given further instruction at no additional charge."
- e) No driver training school may sell, transfer, assign, exchange, trade or otherwise dispose of any contract or part of a contract, agreement or obligation between any driver training school and any student, unless the driver training school has obtained the written consent of the student.
- f) If any driver training school fails to comply with the provisions of a contract or agreement by or between the driver training school or any of its students, the driver training school shall refund all monies deposited by the student as consideration for performance of the

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contract or agreement by the school, unless the student violates the provisions of the contract or agreement.

(Source: Amended at 20 Ill. Reg. **3861**, effective FEB 14 1996)

Section 1060.110 Safety Inspection of Driver Training School Motor Vehicles

a) All motor vehicles used by any driver training school or driver training instructor for driving instruction or driver training purposes shall be safety inspected by the ~~Illinois~~ Department of Transportation. Evidence of such inspection must accompany the initial or renewal driver training school application. Any new vehicle purchased after the issuance of a school license shall be so inspected for safety and such evidence of inspection must be delivered to the Department.

b) Motor vehicles which have passed safety inspection will be issued a safety inspection sticker, which identifies the year in which the sticker is valid. The safety inspection stickers shall not be removed unless the term of validity has expired or the motor vehicle ceases to be used for driver training instruction or driver training purposes by the driver training school identified on the sticker.

c) It shall be the responsibility of the driver training school to remove and destroy the safety inspection sticker when the term of its validity has expired or the motor vehicle ceases to be used by the driver training school for driver training instruction or driver training purposes.

d) No motor vehicle may be used for driver training unless:

- 1) It is equipped with a dual braking device which will enable an accompanying instructor to bring the car under control in case of an emergency as required pursuant to Section 6-410(b) of the Illinois Driver Licensing Law of the Illinois Vehicle Code.
- 2) Commercial motor vehicles are exempt from this requirement. If equipped with a standard transmission, it is equipped with at least a dual clutch and braking device which will enable an accompanying instructor to bring the car under control in case of an emergency. Commercial motor vehicles are exempt from this requirement.
- 3) It is equipped with a driver and passenger sideview mirror as required pursuant to Section 6-410(b) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-410(b)];
- 4) It is owned or leased in the name of a driver training school licensed by the Department or school owner indicated on the license, and registered by the Secretary of State Vehicle Services Department pursuant to Statute and these Rules or is leased by a driver training school and a lease agreement is submitted to the Department signed by the lessor and lessee. The lease agreement shall contain the make, year, and vehicle

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identification number of the vehicle. It shall also contain the names and addresses of the lessor and lessee;

- 5) It is in safe operating condition;
- 6) It is listed in the driver training school license application or supplemental application or schedule on file with the Department;
- 7) It is properly identified as a driver training motor vehicle by equipping the motor vehicle with a sign or signs visible from the front and the rear in letters no less than 2 inches tall, listing the full name of the driver training school which has registered and insured the motor vehicle pursuant to Section 6-410(c) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-410(c)];
- 8) Current and valid registration on the vehicle used for driver training must be retained in the vehicle;
- 9) It displays a current and valid safety inspection certificate sticker.

e) The Department shall not issue an insurance certificate sticker until the school has provided to the Department a vehicle Fleet Schedule which lists the vehicle(s) used by the school and which is signed by an authorized representative of the Illinois Department of Transportation.

f) The insurance certificate sticker shall be firmly attached to the lower right portion of the front windshield of the vehicle and shall not be removed until the term of validity has expired or the motor vehicle ceases to be used for driver training instruction or driver training purposes by the driver training school identified on the sticker.

(Source: Amended at 20 Ill. Reg. 3861, effective February 1, 1991)

Section 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License

a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license:

- 1) To any person who has not held a valid driver's license for any two (2) year period of ~~time within two (2) consecutive years~~ immediately preceding the date of application for an instructor's license; ~~the following shall not interrupt the running of the two (2) consecutive year requirement: a lapse in renewal of the driver's license of less than thirty (30) days; a lapse due to a suspension for an auto emissions violation; failure to appear at a warrant parking traffic violation; a safety responsibility violation; a financial responsibility violation or an unsatisfied judgment; as described in 92-III-Adm-Code 1040-42; or an administrative revocation which has been rescinded;~~
- 2) To any person who has been convicted of three (3) or more

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offenses against traffic regulations governing the movement of traffic within the two (2) year period immediately preceding the date of application for an instructor's license;

- 3) To any person who has had more than one (1) conviction of a violation which caused an auto accident within the two (2) year period immediately preceding the date of application for an instructor's license;
- 4) To any person who has been convicted of driving under the influence of alcohol and/or other drugs, pursuant to Section 11-501 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501], leaving the scene of a fatal accident, pursuant to Section 11-401 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-401], reckless homicide, pursuant to Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3], reckless driving, pursuant to Section 11-503 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-503], or any sex or drug related offense within 10 5 years prior to date of application;
- 5) To any person who has failed to pass the written, vision, or road test required by the Department for applicants for a driver training instructor's license;
- 6) To any person who is physically unable to safely operate a motor vehicle or to safely instruct or train others in the operation of a motor vehicle as determined by a licensed physician pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)]. An application/medical examination form provided by the Secretary of State shall be completed by the applicant and physician. The physician's medical examination form shall contain the applicant's ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his limbs and feet. The physician must also provide his address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with subsection (d) of this Section;
- 7) To any person who fails to properly and fully complete an application for such license or otherwise indicates that he is unqualified to receive a driver training instructor's license;
- 8) To any person who is not employed or associated with a driver training school licensed by the Department as required pursuant to Section 6-417 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-417];
- 9) To any person who is currently a salaried or contractual employee of the Secretary of State as mandated by the guidelines of the Secretary of State's Office Policy Manual which states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the

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- jurisdiction of the Office of the Secretary of State;
- 10) To any person who fails to supply a complete set of fingerprints to the Department as required pursuant to Section 6-411(b) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(b)];
 - 11) To any person who is not at least 21 years of age and a resident of the State of Illinois;
 - 12) To any person who has failed to comply with the provisions of these Rules pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)];
 - 13) To any person who is not of good moral character as required pursuant to Section 6-411(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(a)]. In making a determination of good moral character, the Department is not limited to, but may consider the following:
 - A) if the person has been convicted of a crime; or
 - B) the age of the person at the time any criminal conviction was entered; or
 - C) the length of time that has elapsed since the person's criminal conviction; or
 - D) the relationship of any crime convicted of to the ability to teach as a driver training instructor; or
 - E) any conviction of rehabilitation after a criminal conviction; or
 - F) opinions of community member concerning the applicant;
 - 14) To any person whose suspension under Section 11-501.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1] has terminated within 5 years prior to date of application [625-ILCS-5/11-501.1].
 - b) If an applicant indicates that he has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor.
 - c) No driver training instructor shall provide behind-the-wheel instruction in a vehicle which is classified higher than the classification of such instructor's driver's license. An instructor may hold two classifications; one classification from Classes A, B, C and D, and one classification from Classes L and M. An instructor holding a Class A commercial driver's license may teach students to drive all Class A, B, C, and D vehicles. An instructor holding a Class B commercial driver's license may teach students to drive all Class B, C, and D vehicles. An instructor holding a Class C commercial driver's license may teach students to drive all Class C and D vehicles. However, an instructor holding a non-commercial driver's license may only teach students who do not require a commercial driver's license. An instructor holding a Class M license may teach students to drive all Class L and M vehicles.

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- d) Any person who is physically unable to safely operate a motor vehicle but meets all other requirements to be a driver training instructor shall be able to teach only the classroom portion of the driver training course upon receipt of a doctor's statement indicating the person is physically able to teach in the classroom. The person shall also pass the vision test, as provided in 92 Ill. Adm. Code 1030.70, the written test, as provided in 92 Ill. Adm. Code 1030.80, the highway safety sign test, and submit all applicable fees as set out in Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] before being issued an instructor's license for classroom instruction only [625-ILCS-5/6-411].
- e) All instructors who have ceased to be employed or associated with the designated school on their license must submit a new complete instructor's license application and application fee before being licensed to instruct at another school or in the same school after such cessation.
- f) If a driver training instructor license is not renewed within one year after the previous year's expiration date, the applicant shall be required to take examinations pursuant to Section 1060.130 of this Part.
- g) An instructor shall not engage in fraudulent activity as defined in Section 1060.5 of this Part.
- h) During the course of instruction in either classroom or behind-the-wheel, an instructor shall not engage in activity unrelated to normal driving instruction that puts the student in danger.

(Source: Amended at 20 Ill. Reg.

3861, effective

Section 1060.140 Temporary Permit

Pending the satisfaction of the Secretary of State that the applicant has met the requirements under these Rules, the Secretary of State may issue a temporary permit to any person applying for an instructor's license. Such temporary permit shall permit the giving of instruction for a period of not more than 180 ninety days while the Secretary of State is completing its investigation and determination of all facts relative to the qualifications of the applicant for the license. The Secretary of State may cancel such temporary permit when he has determined or has reasonable cause to believe that the application is incorrect or incomplete or the temporary permit was issued in error. Such temporary permit shall be invalid when cancelled or when the applicant's license has been issued or denied.

(Source: ~~Amended~~ at 20 Ill. Reg.

3861, effective

Section 1060.170 Hearings

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- a) Prior to the denial of a ~~the renewal of the~~ license or accreditation of a commercial driver training school or commercial driver training school instructor, the Department shall send ~~give fifteen (15) days~~ written notice to such school or person. ~~The sanction shall be effective on the 15th day.~~ If a formal hearing is requested in writing during the notice period, in accordance with 92 Ill. Adm. Code 1001.7Subpart A and Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118] the denial shall stand ~~7-the sanction shall be stayed~~ pending the outcome of such hearing. The basis for denial of a license ~~or renewal of a license~~ is stated in Section 6-420 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-420].
- b) Prior to the suspension or revocation of the license or accreditation of a commercial driver training school or commercial driver training school instructor, the Department will conduct a hearing in accordance with 92 Ill. Adm. Code 1001.7Subpart A and Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118], wherein the Department will present competent evidence to establish violations of any regulations or laws governing commercial driver training schools and/or instructors and seek the appropriate sanctions in accordance with Section 1060.190 of this Part.

(Source: Amended at 20 Ill. Reg. 3861, effective FEB 14)

Section 1060.180 Teen Accreditation

- a) Accreditation of the School -- Each commercial driver training school which desires to offer instruction to those under the age of 18 must be accredited by the Secretary of State through the Department of Driver Services before such instruction can be offered or advertised.
- 1) Upon receipt of proper application for accreditation, the Secretary of State will investigate the school and verify the application. A Secretary of State employee shall contact the school and make an appointment to visit the school's facilities. At the time of the visit, the Secretary of State employee shall verify that the school meets the standards set forth for commercial driving schools in Section 6-401 of the Illinois Vehicle Code [625 ILCS 5/6-401]. In addition, the school shall meet the standards for commercial driver school teen accreditation that are set forth in Sections 1060.180(b) through (f) of this Part. These standards shall be furnished to the school by the Secretary of State before the visit if the school requests them. If all qualifications and standards are met, the school shall be certified to offer instruction to students under the age of 18.
- 2) The accreditation of each school is renewable upon the expiration date of the school license provided all qualifications and

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- standards are met and provided the school has been in compliance with all rules.
- 3) Only qualified teaching personnel may teach persons under age 18. Exception: in event of an emergency situation wherein the only available teacher terminates his or her employment, or must take a leave of absence, while a course remains incomplete, other licensed instructors may take over and complete the course. No new courses may be started before properly qualified teaching personnel are again available. In all such cases the Department must be given prior approval. Approval shall not be given until the Department has checked the roster of instructors at the school and determined that no other teacher licensed by the Secretary of State to teach students under 18 is available at the school.
- b) Required Facilities -- All teen accredited driver training schools must provide all classroom and vehicle facilities and equipment as prescribed in the driving school laws and regulations as administered by the Secretary of State. Those who desire to provide instruction for persons under the age of 18 must comply with Section 1060.50 of this Part. Schools in operation at the time that this Part becomes effective may continue to use their present classroom facilities as long as they continue to occupy them.
- 1) Required Course of Instruction

A) One (1) copy of an outline covering the topics to be taught in the classroom phase of instruction, and two (2) copies of an outline of the behind-the-wheel phase of instruction constructed along the lines of the recommended "Illinois Driver Education Curriculum." Said outlines must meet the approval of the Director of the Department.

- i) Accredited teen driver training schools must follow the approved classroom and behind-the-wheel course outlines that are submitted to the Director of the Department at the time of application for certification. The Department shall determine compliance with this provision by unannounced inspections of teen classes and records. At least one such inspection shall take place every two (2) months.
- ii) If such classroom or behind-the-wheel outlines are substantially changed, revised outlines must be submitted in duplicate to the Director of the Department for approval. A letter shall be sent to the driver training school informing them if their classroom or behind-the-wheel outline has been approved.

B) Instructional materials shall be available and shall include one of the following: a 16 mm sound projector and screen, video equipment with films processed on video tape, a film strip or slide projector and films which correspond with the

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outline described in paragraph (b)(2)(A) of this Section.

C) A professional library containing an assortment of reference and textbooks, pamphlets and other publications which is available for the use of students or teachers.

c) Teacher Qualifications

1) Classroom Teacher Qualifications -- Each teen accredited driver training school must have at least one classroom instructor employed who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411], pertaining to classroom instructors who teach approved driver education courses to students under 18 years of age.

A) A classroom driver training instructor teaching the teen accredited program must comply with Sections 1060.120 and 1060.130 of this Part.

B) The instructor must possess good physical, mental health. An application - physical exam form will be provided by the Secretary of State which must be completed by the instructor and a physician.

C) The instructor must qualify under one of the following requirements:

- i) Be a certified teacher meeting the requirements of 23 Ill. Adm. Code 252.40(b)(3). (Minor -- 16 semester hours)-
- ii) Hold a baccalaureate degree, have one (1) year of teaching experience in primary, secondary or higher education and complete a 48 hour course approved by the Director of the Department.
- iii) Complete the 48 hour course or an equivalent college or university course approved by the Director of the Department and have six (6) months of experience teaching behind-the-wheel to adults.

2) Behind-the-wheel Teacher Qualifications -- Behind-the-wheel teachers of driving shall be those who have passed an objective type written examination based upon current textbooks and the Motor Vehicle Code; a practical test regarding their ability to drive and to instruct others; and investigation of their moral character and driving record as required in Section 6-411 (a) through (f) of the Illinois Vehicle Code [625 ILCS 5/6-411(a) through (f)] and supplementary regulations.

A) A driver training instructor teaching the teen accredited behind-the-wheel program must comply with Section 1060.120 and 1060.130 of this Part.

B) The instructor must possess good physical and mental health. An application - physical exam form will be provided by the Secretary of State which must be completed by the instructor and a physician.

C) The instructor must qualify under one of the following requirements:

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- i) Be a certified teacher meeting the requirements of Ill. Adm. code 252.40(b)(3).
- ii) Hold a baccalaureate degree and have six (6) months ~~one---(1)---year~~ of experience in teaching behind-the-wheel to adults.
- iii) Have seven (7) years of uninterrupted teaching experience in a commercial driver training school.
- iv) Be licensed by the Secretary of State, complete the 48 hour course or an equivalent college or university course approved by the Director of Driver Services, and have six (6) months of experience teaching behind-the-wheel to adults.

3) Classroom and/or behind-the-wheel driver education teachers are to be assigned not more than eight (8) clock hours of instructional work daily.

d) Student Qualifications

1) A driver training school or driver training instructor licensed by the Secretary of State shall comply with all of the requirements of Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5] prior to requesting a certificate of completion from the Secretary of State.

~~Effective--January--17--1994, no driver training school or driver training school instructor licensed by the Secretary of State may provide any classroom or behind the wheel instruction to any student in any public or non-public secondary school unless the restrictions contained in Section 6-408.5 of the Illinois Vehicle Code--(625-ILCS-5/6-408.5)--are complied with:~~

2) A superintendent or chief school administrator may waive the requirements contained within ~~in--this~~ Section 6-408.5 of the Illinois Vehicle Code if he/she deems it to be in the best interests of the student or dropout. The State Board of Education may, at their discretion, by rule or regulation, establish guidelines for the waiver of the requirements of Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5].

3) ~~Prior to a driver--training--school--or--driver--training--school instructor--providing--any--classroom--or--behind-the-wheel instruction to a student--the driver training--school--or--driver training--instructor--must verify that the student is enrolled in school and has received a passing grade in at least eight (8) courses during the two (2) semesters. Verification of a student's eligibility to obtain a certificate of completion from the Secretary of State shall be by one of the following methods:~~

A) obtain written documentation on a form prepared or approved by the Secretary of State stating the student ~~is enrolled in school--and~~ has received a passing grade in at least eight (8) courses during the previous two (2) semesters;

B) obtain written waiver from a superintendent or school

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- administrator on a form prepared or approved by the Secretary of State; receive copies of the student's report card for the previous two (2) semesters indicating a passing grade in at least eight (8) courses during the previous two (2) semesters;
- e) receive copies of the student's transcript for the previous two (2) semesters indicating a passing grade in at least eight (8) courses during the previous two (2) semesters;
- (b) obtain written verification on a form prepared or approved by the Secretary of State stating the student is enrolled in a home school;
- D) obtain copies of the student's report card and/or transcript for the previous two (2) semesters indicating a passing grade in at least eight (8) courses during the previous two (2) semesters.
- 4) Verification of eligibility for any person who has dropped out of school and has not yet attained the age of 18 years shall be by one of the following methods: Prior to a driver training school or driver training school instructor providing any classroom or behind the wheel instruction to a student who has been waived from the requirements of Section 6-408.5 of the Illinois Vehicle Code--625-5/6-408.5, the driver training school or driver training school instructor must receive written approval from a superintendent or school administrator on a form prepared or approved by the Secretary of State--and approval from the Secretary of State's Commercial Driver Training Section.
- A) obtain written documentation verifying the dropout's enrollment in GED or an alternative education program or obtain a copy of the dropout's GED certificate;
- B) obtain written verification that the student prior to dropping out had received a passing grade in at least eight (8) courses during the two (2) previous semesters last ending prior to requesting a certificate of completion; or
- C) obtain written consent on a form prepared or approved by the Secretary of State from the dropout's parents or guardian and the regional superintendent.
- 5) Students enrolled in a driver training school shall be informed in writing of the eligibility requirements of Section 6-408.5 of the Illinois Vehicle Code at the time of registration which shall be documented in the student's file. The driver training school and/or driver training school instructor shall maintain a copy and make available for inspection the student's file. The driver training school and/or driver training school instructor shall maintain a copy and make available for inspection the student's driver education approval form, report card, or transcript.
- 6) The driver training school and/or driver training school instructor shall maintain a copy and make available for inspection all written documentation required by this Section.
- e) Classroom instruction -- for persons under age 18 years.

- 1) No classroom instruction shall be provided to any person who is

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- enrolled as a student in any public or non-public secondary school unless the restrictions contained in Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5] are complied with.
- 2) Classroom instruction shall include not less than 30 class hours. Instructional periods are to be no longer than two (2) hours daily with meetings distributed regularly throughout the minimum of four complete weeks. The maximum number of students cannot exceed 30 per class for classroom instruction unless the size of the classroom exceeds 350 square feet, then a maximum of 35 students shall be allowed.
- 3) Classroom instruction shall include subject matter relating to the rules of the road, safe driving practices, pedestrian safety, driver responsibility, theory of driving, defensive driving techniques, behavioral characteristics of drivers, auto insurance and financial responsibility, development of perception for driving, emergency situation procedures, the use of automobile safety devices, and the effects of alcohol and/or other drugs on driving.
- 4) Each classroom course must have a definite starting date and completion date. Late registrations shall not be accepted beyond the third day of the course, at which time the course must be closed to further enrollments.
- 5) Late registrants and absentees shall be given make-up instruction, assignments. No school shall permit the student to be absent from more than four (4) class sessions without requiring the student to re-enroll in a later course and to start over.
- 6) The teaching facilities must provide adequate, comfortable seating for students. Lighting must be adequate and the maintenance (housekeeping) of the room orderly.
- 7) A textbook on driver education must be in the possession of each student for the duration of the course, to be used as a regular part of the course content, and consistent with the recommended course outline.
- 8) Audio-visual materials shall be used as a supplement to the teacher's presentation but not as a replacement. Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and should include outside reading as well as preparation for testing.
- 9) A regular schedule of classroom testing shall be followed. Student progress in acquaintance with information, data, and knowledge is to be periodically evaluated. Criteria for passing or failing the course must be evident to the students and successful completion clearly defined.
- 10) Each student shall be informed prior to the time instruction begins of the character and amount of any and all fees or charges made for enrollments or registration, tuition, use of equipment,

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text and reference materials, supplies, and any service, equipment, or materials provided by the commercial driving school.

11) Instruction for each student in the class shall begin on the date and location designated by advertisement and continue throughout the designated period unless the course is cancelled and the student is refunded any fees already paid.

12) A listing of students enrolled in the classroom shall be sent to the Department of Driver Services Blue Slip Unit within three (3) days after the third day of classroom instruction ~~of--the--date~~ ~~classroom--instruction--begins~~ on forms provided by the Secretary of State. A certificate will not be issued to anyone whose name has not been submitted on this form signed by an authorized official of the school.

f) Laboratory instruction -- for persons under age 18 years.

~~†) No laboratory instruction shall be provided to any person who--is enrolled--as--a--student--in--any--public--or--non-public--secondary school--unless--the--restrictions--contained--in--Section--6-408.5--of the--Illinois--Vehicle--Code--625-ILCS-5/6-408.5--are--complied--with.~~
 12) Laboratory instruction shall not begin until such time as the student is enrolled in a classroom program of driver education and possesses the basic information required for safe operation of a vehicle in traffic. At least four (4) hours of classroom instruction must be given before behind-the-wheel lessons are started.

23) Each student must have in his or her possession when engaged in vehicle operation a valid instruction permit issued by the Secretary of State.

34) Not less than two nor more than four students are to occupy the car with an instructor when instruction is in progress. Student driving experiences shall be for periods of not more than ~~ninety~~ {90} minutes for each student per session. The accumulation of six (6) hours of practice driving shall be distributed regularly throughout a minimum of two complete weeks. Although observation time in the car may not be counted as practice driving, a minimum of six (6) hours is required. The only exception shall be when a parent requests that observers be excluded because the student is disturbed by having an observer in the car.

45) Each student shall receive a minimum of six (6) full hours of behind-the-wheel instruction. There can be no allowance for any absences without actual make-up time spent behind-the-wheel. Satisfactory completion denotes that each student has the competencies to be certified by the school for issuance of a certificate.

56) Lesson time or practice driving time may not be used to call for, deliver or dismiss other students to their homes or pick up points.

67) Practice driving instruction shall include actual experience in

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starting, stopping, shifting, turning, backing, parking, steering, and emergency situation procedure in a vehicle equipped according to Section 6-410 of the Illinois Vehicle Code [625 ILCS 5/6-410].

g) Records.

1) Records shall be maintained by schools which substantiate daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the beginning and ending dates of classroom as well as laboratory instruction. Students are to be identified by their social security numbers as well as by name, address and other personal information. Such records are to be on file in the office of the management for a period of three (3) years.

2) A Secretary of State form shall be used for submitting the names of those students who have satisfactorily fulfilled the requirements of the complete course in driver education and who qualify for a certificate. The form shall be signed by an authorized official of the school.

(Source: Amended at 20 Ill. Reg. **3861** ~~3861~~, effective ~~FEB 14 1990~~)

Section 1060.190 Denial, Cancellation, Suspension, And Revocation Of Commercial Driver Training School's License And Instructor's License

a) The Secretary of State shall deny or cancel a commercial driver training school license for failing to correct after being served written notice, giving five business days to correct any violation of the following regulations and laws governing commercial driver training schools:

1) a violation of any requirements in Sections 1060.50 of this Part and Sections 6-403, 6-404, 6-405, 6-406, and 6-407 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-403, 6-404, 6-405, 6-406, and 6-407] relating to the physical facilities of the school;

2) a violation of any requirements in Sections ~~Section~~ 1060.60 and 1060.200(e)(1) of this Part and Sections ~~Section~~ 6-408 and 6-408.5 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-408 and 6-408.5] relating to the maintenance of driver training school records;

3) a violation of any requirements in Section 1060.110 of this Part and Section 6-410 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-410] relating to the safety inspection and requirements of a driver training school's motor vehicles;

4) failure of school to own or lease a vehicle;

5) failure to pay the fees required by Section 6-402 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS

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- 5/6-402];
- 6) for a violation of Section 1060.20(a)(2) of this Part relating to the employment of a licensed driver training instructor;
 - 7) for any violation of the requirements of Section 1060.30 of this Part relating to driver training school names and business organizational status;
 - 8) for any violation of the requirements of the Business Corporation Act of 1983 [805 ILCS 5];
 - 9) for a violation of the requirements of a vehicle used for instruction to have a safety inspection sticker as required by Section 1060.110 of this Part and Section 6-410 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-410];
 - 10) for a violation of the requirement of a vehicle used for instruction to have a current and valid registration on the vehicle used for driver training that is retained in the vehicle as required by Section 1060.110(d)(9) of this Part.
- b) A commercial driver training school's license shall be immediately canceled:
- 1) for a violation of the requirements of Section 6-402(e) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(e)];
 - 2) for a violation of the requirements of Section 6-402(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(d)];
 - 3) for a violation of the requirements of Section 1060.90 of this Part;
- c) If a branch license is canceled because the branch facility does not meet the standards found in Section 1060.50 of this Part, the school's license shall not be canceled but the branch shall remain closed until the branch facility comes into compliance.
- d) In order to be eligible to be reinstated following cancellation, the school shall reapply for a license, pay the required application fee of \$250 for a school as required by Section 6-402(i) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(i)] and demonstrate compliance with the provisions of this Part for which the cancellation was issued (e.g., proof of insurance).
- e) The Secretary of State shall cancel a commercial driver training school instructor's license for failing to correct after being served written notice, giving five business days to correct, any violation of Section 6-418 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-418].
- f) A commercial driver training school instructor's license shall be immediately canceled:
- 1) upon notification to the Commercial Driver Training Section that the instructor is no longer employed by the school or no longer has a valid driver's license;
 - 2) for failure to produce records after a written warning and demand

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- to produce the records within five (5) business days.
- g) In order to be eligible to be reinstated following cancellation, the instructor shall reapply for a license; pay the required fee of \$35 for an instructor as required by Section 6-411(g) of the Illinois Vehicle Code [625 ILCS 5/6-411(g)]; and demonstrate compliance with the provisions of this Part for which cancellation was issued (e.g., proof of insurance).
 - h) The Secretary of State shall suspend a commercial driver training school license up to one (1) year depending on the severity of the violation if the school violates any of the following regulations and laws governing commercial driver training schools:
 - 1) for any violation of this Part;
 - 2) for any violation of Section 6-407, or 6-408, 6-408.5 or 6-409 of the Illinois Vehicle Code [625 ILCS 5/6-407, 6-408, 6-408.5 or 6-409];
 - 3) if a school accredited to teach teens pursuant to Section 1060.180 of this Part fails to keep records on teenage clients as required in Section 1060.180(gf), the school shall have its teen accreditation as found in Section 1060.180(a) suspended, but not their school license;
 - 4) if a school accredited to teach teens pursuant to Section 1060.180 of this Part violates any of the provisions in Section 1060.180(d), the school shall have its teen accreditation as found in Section 1060.180(a) suspended, but not its school license.
 - i) A school which wishes to have a license reinstated following suspension shall reapply and pay the application fee of \$250 as required by Section 6-402(i) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(i)].
 - j) The Secretary of State shall suspend a commercial driver training school instructor's license up to one (1) year depending upon the severity of the infraction for any violation of this Part.
 - k) An instructor who wishes to have a license reinstated following suspension shall reapply and pay \$35 required by Section 6-411(g) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(g)].
 - l) The Secretary of State shall revoke a commercial driver training school license if the school violates any of the following regulations and laws governing commercial driver training schools:
 - 1) if the school engages in or permits any type of fraudulent activity, either with reference to a student or the Secretary of State;
 - 2) for selling, assigning, bartering, or trading any school or instructor license issued by the Secretary of State;
 - 3) for remaining in operation if the school's license has been suspended, canceled, revoked, or not renewed;
 - 4) for having unauthorized possession of application forms or questionnaires used by the Driver Services Department of the

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reinstatement by requesting a formal administrative hearing as found in 91 Ill. Adm. Code 1001.7Subpart A.
p) An owner's or instructor's license shall be revoked for lack of good moral character. In making a determination of good moral character, the Department is not limited to, but may consider the following:

- 1) If the owner or instructor has been convicted of a crime; or
- 2) The relationship of any crime convicted of to the ability to operate a driver training school; or
- 3) Opinions of the community members concerning the owner or instructor; or
- 4) The length of time that has elapsed since the owner's or instructor's last criminal conviction; or
- 5) If the owner or instructor has been convicted with an offense and the Secretary of State has received sufficient evidence that the owner or instructor has been convicted of an offense in regard to a student or the Secretary of State;

A) In determining whether action should be taken, there must be sufficient evidence that the owner or instructor has committed an offense in regard to a student or the Secretary of State. "Sufficient evidence" shall be defined as but not limited to:

- i) copies of court documents showing the conviction of an owner or instructor of an offense in regard to a student or the Secretary of State;
- ii) affidavits of eyewitnesses or others with first hand knowledge concerning the matters which indicate offenses in regard to students or the Secretary of State;
- iii) any other competent evidence, including but not limited to: police reports, transcripts of preliminary hearings or Grand Jury proceedings, and other documents deemed important and probative by the State's Attorney.

B) If sufficient evidence is received from the State's Attorney and indicates that a person has committed an offense in regard to a student or Secretary of State, and that these offenses, currently awaiting court disposition, involved a student or Secretary of State, the owner's or instructor's license shall be revoked.

C) If the owner or instructor, whose commercial driver training school license has been revoked under this Section, is adjudicated "guilty" by the court systems, the revocation previously entered on his/her record in accordance with this Section shall stand. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.

D) If the owner or instructor, whose commercial driver training

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Secretary of State's Office in conjunction with administering driver's license examinations;
5) for making a false statement or knowingly concealing a material fact in the application for a school license;

6) for a subsequent violation of Section 6-407 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-407];

7) for repeated violations of this Part or Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV].

m) A revocation shall be for an indefinite period. After one (1) year the school may apply for reinstatement by requesting a formal administrative hearing as found in 92 Ill. Adm. Code 1001.7Subpart A.
n) The Secretary of State shall revoke a commercial driver training school instructor's license if the instructor violates any of the following regulations and laws governing commercial driver training schools:

- 1) If he/she is convicted of the following:
 - A) a violation of Section 11-501 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501] relating to driving under the influence of drugs and/or alcohol.
 - B) a violation of Section 11-503 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-503].
 - C) a violation of Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3] relating to reckless homicide.
 - D) a violation of Section 11-401 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-401].
 - E) any sex or drug related offense.
- 2) If he/she engages or permits any type of fraudulent activity either with reference to a student or the Secretary of State.
- 3) A violation of Section 6-420(5) of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/6-420(5)].
- 4) If he/she knowingly aids or assists an applicant in obtaining a driver's license by fraudulent procedure.
- 5) If he/she has in possession unauthorized application forms or questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations.
- 6) For repeated violations of this Part or Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV].
- 7) If he/she has received a suspension of driving privileges under Section 11-501.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1], which has terminated within the last ten (10) years prior to the date of application [625-ILCS-5/11-501.1].
- o) A revocation of an instructor's license shall be for an indefinite period of time. After one (1) year, the instructor may apply for

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school license has been revoked under this Section, is adjudicated "not guilty" by the court system, the revocation previously entered on their license in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.

E) If the individual whose commercial driver training school license has been revoked under this Section is granted a disposition of "court supervision" by the court system, the revocation previously entered in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.

F) If the charges against the owner or instructor, whose commercial driver training school license has been revoked under this Section, are reduced or altered in any manner such that the offense(s) for which the owner or instructor is convicted is not an offense in regard to a student or Secretary of State, the revocation previously entered in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of a commercial driver training school license under another Section of the Illinois Vehicle Code.

G) An individual whose commercial driver training school license has been revoked pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.

q) The Secretary of State shall have the discretionary authority to issue warning letters to commercial driver training schools or instructors for violations of the regulations and laws governing commercial driver training schools as found in this Part and Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code, prior to the cancellation, suspension, or revocation of the school's or instructor's license.

r) Prior to the cancellation, suspension, or revocation of a school's or instructor's license, the Secretary may schedule a conference with the individual whose commercial license has been found to be in violation and administrative consultation will occur at this time. If the violation(s) are not corrected within a reasonable time, the Administrator shall take corrective measures upon the issuance of an "Advisory Letter for Correction" to the individual and/or school. If the violations are not corrected a warning letter shall be issued and the disciplinary process will begin pursuant to the regulations and laws governing commercial driving schools as found in this Part and Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

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(Source: Amended at 20 Ill. Reg. **3861**, effective FEB 14 1996)

Section 1060.200 Commercial Driver's License and and/or Endorsement and/or Accreditation

a) Accreditation of the Program - Each commercial driver training school which desires to offer instruction to those individuals who wish to obtain a CDL and/or endorsement and/or restriction must be accredited by the Secretary of State through the Department of Driver Services before such instruction can be offered or advertised.

1) Upon receipt of proper application for accreditation, the Secretary of State shall investigate the program and verify the information contained in the application. A Secretary of State employee shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Secretary of State employee shall verify that the school meets the standards for CDL accreditation set forth in subsections 1060-190(b) through (f) of this Section in addition to all other applicable subsections within this Part. These standards shall be furnished to the school by the Secretary of State before the visit if the school requests them. If all qualifications and standards are met, the school shall be accredited to offer instruction on how to operate a vehicle with CDL and/or endorsement and/or restriction classification.

2) The CDL and/or endorsement and/or restriction accreditation is renewable on January 1 of each year, provided the school is in compliance with this Part.

3) Only qualified teaching personnel who already possess a CDL and/or endorsement and/or restriction classification (or the equivalent classification until April 1, 1992) may teach the drive portion of instruction.

b) Required facilities - All CDL and and/or endorsement and/or restriction accredited schools must provide all classroom and vehicle facilities and equipment as prescribed in Article IV of the Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and Section 1060.50 of this Part. Those who desire to provide instruction to person(s) who wish to obtain a CDL and/or endorsement and/or restriction classified license must additionally provide a vehicle training area, owned or leased by the school, with sufficient space to properly accommodate the number of vehicles the school has in operation and appropriate off-street maneuvers. Schools in operation at the time that this rule becomes effective may continue to use their present classroom facilities as long as they continue to occupy them.

1) Required course of instruction:

- One copy **two-copies** of an outline covering the topics to be taught in the classroom phase of instruction, and two (2) copies of an outline of the behind-the-wheel phase of

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instruction constructed along the lines of the requirements contained in 49 CFR 383.110-121. If said outlines are constructed along the lines of the requirements contained in 49 CFR 383.110-121, they shall be approved by the Director of the Department.

i)1 Driving schools must follow the approved CDL classroom and behind-the-wheel course outlines that are submitted to the Director of the Department at the time of application for accreditation. The Department shall determine compliance with this provision by unannounced inspections of classes and student records. At least one inspection shall take place each month.

ii)2 Revised outlines must be submitted ~~in duplicate~~ to the Director of the Department for approval pursuant to subsection (b)(1)(A). A letter shall be sent to the driver training school informing them if their CDL classroom or behind-the-wheel outline has been approved.

B) Instructional materials shall be available and shall include at least one of the following: a 16 mm sound projector and screen, video equipment with films processed on video tape, a film or films ~~which correspond with the outline described in Section 1069-200(b)(1)(A) of this Part.~~

C) A professional library containing an assortment of reference and textbooks, pamphlets, and other publications including but not limited to the CDL Study Guide, which are available for the use of students and teachers.

D) A brush-up course of instruction may be offered to individuals who currently hold or have held a CDL and/or endorsement and/or restriction license. This course may be offered on an hourly basis, ~~but need not correspond to outlines required in subsection (b)(1)(A) above of this Part.~~ No brush-up course may be offered to any individual who has never held a CDL and/or endorsement and/or restriction classified license.

E) Classroom instruction - CDL and/or endorsement and/or restriction classification instruction.

i)1 Each classroom course must have a definite starting date and completion date.

ii)2 Classroom instruction shall include subject matter relating to the rules of the road as contained in the CDL Study Guide, safe driving practices, pedestrian safety, defensive driving techniques, behavioral characteristics of drivers, federal regulations relating to the Department of Transportation and CDL standards (49 CFR 383), vehicle insurance, the use of safety devices, and the effects of alcohol and drugs

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on driving.

iii)3 A CDL Study Guide must be in the possession of each student for the duration of the course, to be used as a regular part of the course content, and consistent with the approved course outline.

iv)4 Audio-visual materials shall be used as a supplement to the teacher's presentation, but not as a replacement. Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and shall include outside reading as well as preparation for testing.

v)5 A regular schedule of classroom testing shall be followed. Student progress is to be periodically evaluated. Criteria for passing or failing the course shall be evident to the student, and successful completion clearly defined.

vi)6 Each student shall be informed, prior to the time instruction begins, of the amount of any and all fees or charges made for enrollment or registration, tuition, use of equipment, or materials provided by the CDL and/or endorsement and/or restriction accredited driver training program.

vii)7 Instruction of each student in the class shall begin on the date and location designated by advertisement and continue throughout the designed period, unless the course is cancelled and the student is refunded any fees already paid.

F) Laboratory Instruction - For persons taking instruction for CDL and/or endorsement and/or restriction classification.

i)1 Behind-the-wheel instruction shall not begin until such time as the student is enrolled in a classroom program of CDL and/or endorsement and/or restriction classification driver training and obtains the required knowledge for the safe operation of a vehicle in traffic as provided in 49 CFR 383.110-121.

ii)2 Each student must have in his/her possession when engaged in vehicle operation a valid and properly classified instruction permit issued by the Secretary of State, unless previously licensed in a classification representative of the vehicle he/she intends to drive.

iii)3 Practice driving instruction shall include but not be limited to pre-trip inspection, actual experience in starting, stopping, shifting, turning, backing, docking, parking, steering, and emergency situation procedures.

c) Classroom teacher qualifications

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1) Each CDL and/or endorsement and/or restriction accredited driver training school must have at least one classroom instructor employed by the school, who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411].

2) Required classroom teacher qualifications:

- A) A driver training instructor teaching the classroom portion of a CDL and/or endorsement and/or restriction accredited course must comply with the provisions of Sections 1060.150 and 1060.160 of this Part.
- B) The instructor must possess good physical and mental health as determined by a physician. An application/physical examination form shall be provided by the Secretary of State which shall be completed by the instructor and a physician.
- C) A classroom instructor must pass an objective type instructor written examination based upon the Illinois Vehicle Code, commercial school rules and regulations, and the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2704). The written examination shall consist of 125 questions (90 multiple choice and 35 true/false) and the instructor must correctly answer 106 questions to pass.

d) CDL and/or endorsement and/or restriction behind-the-wheel teacher qualifications

- 1) Each CDL and/or endorsement and/or restriction accredited driver training school must have at least one behind-the-wheel instructor employed by the school, who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411].

2) Required behind-the-wheel teacher qualifications:

- A) A driver training instructor teaching the behind-the-wheel portion of a CDL and/or endorsement and/or restriction accredited course must comply with the provisions of Sections 1060.120 and 1060.130 of this Part and be licensed in a classification representative of the vehicle in which they intend to teach.
- B) The instructor must possess good physical and mental health as determined by a physician. An application/physical examination form shall be provided by the Secretary of State which shall be completed by the instructor and a physician.
- C) The instructor shall give instruction only in the classification and/or endorsement and/or restriction in which he/she is licensed.
- D) A behind-the-wheel instructor must pass an objective type instructor written examination based upon the Illinois Vehicle Code, commercial school rules and regulations, and the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2704) as provided for in subsection (c)(2)(C). In addition, a behind-the-wheel instructor must pass a practical test regarding his/her ability to drive a vehicle of CDL and/or endorsement and/or restriction classification

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(92 Ill. Adm. Code 1030.85).

e) Student Instruction Records

- 1) Records shall be maintained by schools which document daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the beginning and ending dates of the classroom as well as behind-the-wheel instruction. Students are to be identified by their social security numbers as well as by name, address, and other personal information. A driver license number also must be entered on the student record. Such records are to be on file in the office of the management for a period of three (3) years.
- 2) The driver school with a CDL and/or endorsement and/or restriction accreditation must meet all requirements of Section 1060.60 of this Part.
- f) The Secretary of State shall suspend or revoke, cancel or deny the license and/or accreditation of any driver training school or driver training instructor if the school or instructor fails to comply with the provisions of this Part or 49 CFR 383.

3861

(Source: Amended at 20 Ill. Reg.

FEB 14 1990)

, effective

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers Adopted Action
1030.16 Amendment
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and Section 6-104(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-104(a)].

5) Effective Date of Amendments: February 14, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: February 14, 1996

9) Notice of Proposal Published in Illinois Register: 19 Ill. Reg. 14395 (October 13, 1995).

10) Has JCAR Issued a Statement of Objections to this Rule? No

11) Differences between proposal and final version: Pursuant to suggestions from the Joint Committee on Administrative Rules, all stylistic and typographical changes were duly incorporated.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the Agreement Letter issued by JCAR? N/A

13) Will this rule replace any Emergency Rule(s) currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rule: This rulemaking is being proposed for amendment pursuant to P.A. 88-209, which amended the Illinois Vehicle Code at Section 6-206(a)(33) concerning the cancellation, suspension or revocation of a driver's license or permit and Section 11-501.8 concerning driving while intoxicated, transportation of alcoholic liquor, and reckless driving.

16) Information and answers to questions regarding this Adopted Rule should be directed to:

Mark A. Novak
Assistant Counsel to the Secretary

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2701 S. Dirksen Parkway
Springfield, IL 62723
Tel: 217/782-5356

The full text of the Adopted Rule begins on the next page.

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1030

ISSUANCE OF LICENSES

Section

- 1030.10 What Persons Shall Not be Licensed or Granted Permits
- 1030.11 Procedure for Obtaining a Driver's License
- 1030.12 Driver's License Medical Advisory Board
- 1030.13 Denial of License or Permit
- 1030.15 Cite for Re-examination
- 1030.17 Errors in Issuance of Driver's License/Cancellation
- 1030.20 Classification of Drivers-References
- 1030.30 Classification Standards
- 1030.40 Fifth Wheel Equipped Trucks
- 1030.50 Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
- 1030.55 Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
- 1030.60 Third-Party Certification Program
- 1030.63 Religious Exemption for Social Security Numbers
- 1030.65 Instruction Permits
- 1030.70 Driver's License Testing/Vision Screening
- 1030.75 Driver's License Testing/Vision Screening with Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
- 1030.80 Driver's License Testing/Written Test
- 1030.81 Endorsements
- 1030.84 Vehicle Inspection
- 1030.85 Driver's License Testing/Road Test
- 1030.86 Multiple Attempts/Road Test
- 1030.88 Exemption of Facility Administered Road Test
- 1030.89 Temporary Licenses
- 1030.90 Requirement For Photograph and Signature of Licensee on Driver's License
- 1030.91 Disabled Person/Handicapped Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Diplomatic and Consular Licenses
- 1030.96 Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License or Permit
- 1030.98 School Bus Commercial Driver's License
- 1030.100 Anatomical Gift Donor
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License

APPENDIX A

Questions Asked of a Driver's License Applicant

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APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective _____.

Section 1030.16 Physical and Mental Evaluation

a) For purpose of this Section the following definitions shall apply:

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and maintained on file with the driver's medical report.

17|16| "Medical Restriction Card" - a card designed and issued by the Department which describes and explains the limitations and/or conditions noted in the restriction area of a person's driver's license. The driver must abide by all the medical restriction placed on his/her license as describe on the medical restrictions card, and upon receipt of the card from the Department, the driver must carry the medical card with his/her driver's license at all times.

18177 "Medical Disorder or Disability" - a scientifically recognized condition which may medically impair a person's mental health to the extent he/she is unable to safely operate a motor vehicle.

19) "Motor Vehicle Departments of Foreign States" - departments in other states that issue driver's licenses.

20) ~~to~~ "National Driver Register (NDR)" - files on drivers maintained by the U.S Department of Transportation, National Highway Traffic Safety Administration.

21)1997 "Official Investigation" - the act of examining and inquiring into an occurrence or circumstance with care and accuracy by a duly authorized member of a local, state or federal agency while acting in his/her professional capacity.

22) 2007 "Physical Condition or Disability" - a scientifically recognized condition which may medically impair a person's physical health to the extent he/she is unable to safely operate a motor vehicle.

231217 "Preliminary Favorable Medical Report"- a current medical report or a current written statement on official letterhead which is signed and dated by a competent medical specialist indicating in his/her professional opinion the driver is medically fit to safely operate a motor vehicle, however, additional information and/or clarification or consultation is needed before the medical report can be classified--as--favorable or--unfavorable.

24) "Problem Driver Pointer System" - a pointer file consisting of an index of problem drivers (as determined by adverse driver's license actions) that is maintained by a driver's home state (State of Record) and is accessed by other states (State of Inquiry) to determine if driver's license applicants are eligible.

251227 "Questionable Medical Report" - a medical report which contains medical information which raises some reasonable doubt regarding the driver's medical ability to safely operate a motor vehicle. Examples of questionable medical reports include, but are not necessarily limited to:

A) a medical report which indicates the driver has experienced an attack of unconsciousness within the past six (6) months;
or

But the prognosis of the mental disorder does not

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indicate--good--favorable--excellent--stable--fair--or--fine
or

B) E the medical report lacks a professional opinion indicating whether or not the driver is medically fit to safely operate a motor vehicle; or

CIB the medical report was signed and/or completed by someone other than a competent medical specialist; or

[illegible]

But the medical report indicates the driver is not taking his/her medication faithfully, or

D) the competent medical specialist recommends the driver have a driver's license, however, expresses reservations about the driver's ability to safely operate a motor vehicle.

26) ~~23~~ "Rescind Order" - a removal by formal action of an order canceling or medically denying issuance of a driver's license to a person.

27) 24 "Secretary of State Employee" - all supervisory personnel with the Department of Driver Service and the Department of Administrative Hearing.

28) 257 "Termination of an Adjudication of Disability Order" - an order by a court of competent jurisdiction terminating an adjudication of disability of the driver pursuant to Sections 11a-2 and 11a-3 of the Probate Act of 1975 (~~11a-2 and 11a-3~~ 11a-2 and 11a-3) [755 ILCS 5/11a-2 and 11a-3].

29)26† "Termination Order" - the ending of an order canceling or medically denying the issuance of a driver's license to a person.

301277 "Unfavorable Medical Report" - a medical report signed and completed by a competent medical specialist containing his/her professional opinion that due to a physical and/or mental disorder/disability the driver is not medically fit to operate a motor vehicle.

31)2087 "Unfit to Stand Trial Order" - an order by a court of competent jurisdiction whereby a defendant because of his/her mental or physical condition he/she is unable to understand the nature and purpose of the proceeding against him/her or to assist in his/her defense pursuant to Article 104 ~~Ch.30-Section 104-10~~ ~~ek-seq7~~ of the Code of Criminal Procedure ~~4411-rev-Stat-19917~~ ~~ch-307-par--104-0-et-seq7~~ [725 ILCS 5/Art. 104] ~~4725--1b6S~~ ~~57104-10-ec-seq7~~

32) "Voluntary Self-Admission" - self-admission of the driver that he/she has a mental disorder/disability and/or physical condition or disability that may impair his/her ability to safely operate a motor vehicle.

b) The Department shall require a driver to submit a medical report from a competent medical specialist when:

1) the driver answers in the affirmative to any question on the driver's license application regarding physical or mental health

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pursuant to Section 6-109 of the Illinois Vehicle Code (411-Rev-
 State--1991--ch. 95-1/2--par. 6-100 et seq.) [625 ILCS 5/6-109]
 (625-BSG-5/6-100 et seq.)-en.

- 2) the Department receives written comments and/or recommendations based upon firsthand knowledge or pursuant to an official investigation that brings into question a driver's physical or mental ability to safely operate a motor vehicle. Such comments and/or recommendations are confidential and must be submitted on official letterhead and signed by one of the following sources:

- A) a competent medical specialist;
- B) a law enforcement official;
- C) a member of the judiciary;
- D) a member of the Board;
- E) the National Driver Register;
- F) a Secretary of State employee;
- G) an employee of the U.S. Department of Transportation, Office of Motor Carriers;*

- H) motor vehicle departments of foreign states;
- I) driver rehabilitation specialist;
- J) voluntary self-admission; or
- K) problem driver pointer system.

- 3) The Department receives an Adjudication of Disability court order where the court appointed a guardian to manage the financial affairs or the estate of the person.

- 4) The driver is renewing a driver's license which at the time of issuance required the driver to submit a medical report, except as provided in subsection (m) of this Section.

- c) The Department shall cancel or medically deny the issuance of a driver's license upon receipt of an Adjudication of Disability order where the court appointed a guardian to make responsible decisions concerning the care of the person or of both the person and his/her financial affairs or estate, or the Department receives an order finding the driver unfit to stand trial.

- 11) The notice of cancellation shall be mailed to the court appointed guardian of the driver.

- 2) The cancellation order shall remain in effect until the court issues an order terminating the adjudication of disability; or the driver is found fit to stand trial.

- 3) After receipt of an order of restoration and prior to the termination of the cancellation, the Department shall request a favorable medical report. Upon receipt of a favorable medical report, the cancellation order shall be terminated and upon the termination of a cancellation under this subsection, the person may reapply for a driver's license as outlined in Section 6-106 of the Illinois Vehicle Code (11-Rev-Stat--1991-ch--95--1727 par--6-106) (625 ILCS 5/6-106).

- (d) The Department shall cancel or medically deny a driver pursuant to Sections 6-103(8), and 6-201(a)(5) of the Illinois Vehicle Code [625

ICUS 5/6-103(8) and 6-201(a)(5)], if one or more of the sources listed in subsection (b)(2) of this Section submits signed, written notification on official letterhead to the Department that based upon its firsthand knowledge or pursuant to an official investigation the person was the driver of a motor vehicle involved in any type of accident or incident resulting from a seizure, an attack of unconsciousness or a blackout ~~that~~ ~~Rev-Set-1991-ent-95-72--part-1993-08-and-6-2101(a)(5)-1625-1055-576-103(8)-and-576-201(a)(5))~~.

- 1) Following a cancellation or denial of a license pursuant to this subsection, the driver must submit a medical report to be forwarded to the Board and abide by all subsequent requests by either the Department or the Board, if any, for further information and/or clarification prior to being eligible to reapply for a driver's license.

- 2) Any medical reports and/or other information concurrently or subsequently received by the Department shall be referred along with the entire case to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in subsection (k) of this Section.

- e) When a driver is required to submit a medical report pursuant to subsections **subsection (b)(2)** and (3) of this Section, the Department shall furnish the appropriate form to be completed by a competent medical specialist to the driver. The driver must then resubmit the completed medical report to the Department within 20 days after of issuance.

- 1) If a medical report is not received by the Department within the above specified time, the driver shall be canceled or medically denied a driver's license.

- 2) If a driver is canceled pursuant to this Subsection and preliminary favorable or favorable medical report is subsequently received, the cancellation shall be rescinded, provided, an unfavorable report is not received in the interim.

- f) If a driver fails to submit a medical report pursuant to subsection (b)(4) of this Section, the Department shall cancel or medically deny the driver pursuant to Sections 6-103(8) and 6-201(a)(5) of the Illinois Vehicle Code. If the Department subsequently receives a preliminary favorable or unfavorable report, the cancellation shall be rescinded, provided an unfavorable report is not received in the interim.

- g) If pursuant to subsection (b) of this Section, the Department receives a favorable medical report the Department shall issue or renew the person's driver's license, unless the driver is otherwise ineligible for the same.

- h) If pursuant to subsection (b) of this Section, the Department receives an unfavorable medical report the Department shall cancel or medically deny the driver pursuant to Section 6-103(8) and 6-201(a)(5) of the Illinois Vehicle Code.

- i) If pursuant to subsection (b) of this Section, the Department

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receives a preliminary favorable report, the Department shall issue or renew the person's driver's license, unless the driver is otherwise ineligible for the same. The Department shall then make a further determination as to the type of information and/or clarification that is needed in order to finish processing the report.

1) If the report is incomplete or one which is not current, a request shall be made in writing to the driver or the competent medical specialist for the necessary information required to process the report.

A) If the Department requests additional information from the driver, and the Department does not receive this information within 45 days after of the written request, the Department shall cancel or medically deny the renewal of the person's driver's license pursuant to Sections 6-201 and 6-103 of the Illinois Vehicle Code.

B) If the Department requests additional information from the competent medical specialist and the Department does not receive this information within 45 days after of the written request, the driver shall be notified in writing that a current and complete medical report is needed. If the driver fails to comply within 45 days, the Department shall cancel or medically deny the driver's license pursuant to Sections 6-201 and 6-103 of the Illinois Vehicle Code. Incomplete medical report shall be forwarded to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in subsection (k) of this Section.

C) If a cancellation order is entered based upon an incomplete medical report or one which is not current and information is received to make the medical report favorable or preliminarily favorable a favorable medical report shall be subsequently received, a rescind order shall be entered, provided an unfavorable medical report is not received in the interim.

2) If the report is questionable, the Department shall forward the medical report to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in subsection (k) of this Section.

4) Every driver who is required to submit a medical report that discharge the existence of a medical condition pursuant to this Section must also complete and sign a medical agreement:

1) This agreement shall include but not necessarily be limited to the following conditions and/or information:

A) A condition that the driver remain under the care of his/her competent medical specialist;

B) A condition that the driver will adhere to the treatment and/or medication;

C) authorization by the driver to the competent medical

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specialist to report any change in the driver's condition which would impair the driver's ability to operate a motor vehicle;

B) possible consequences for failing to abide by any or all of the conditions contained in the medical agreement;

2) If a driver fails to submit a medical agreement to the Department within 20 days of the request, the Department shall cancel or medically deny the person's driver's license;

3) A driver canceled pursuant to this subsection for failure to submit a medical agreement within the specified time and the driver subsequently complies with all of the requests of the Department, the cancellation shall be rescinded.

j) If the Department receives a report or statement from a competent medical specialist indicating the driver failed to abide by any of the terms of the medical agreement, the Department shall:

1) cancel or medically deny the driver if the medical report or medical statement does not contain a professional opinion that the driver can safely operate a motor vehicle, and forward the entire case to the Board for determination as to the driver's ability to safely operate a motor vehicle pursuant to subsection (k) of this Section.

2) forward the entire case to the Board for determination as to the driver's ability to operate a motor vehicle pursuant to subsection (k) of this Section, if the medical report or medical statement contains a professional opinion that the driver can safely operate a motor vehicle.

3) cancel or medically deny a driver if the medical report or medical statement contains a professional opinion the driver can not safely operate a motor vehicle; the entire file shall be considered an unfavorable medical report as outlined in subsection (h) of this Section.

k) The Department shall forward a driver's case to the Board when:

1) the driver was medically denied or canceled based upon the Board's last recommendation; or

2) the Board has requested to review intermittent reports; or

3) a different competent medical specialist submits a favorable medical report contradictory to an unfavorable medical report on file, which was used as the basis to deny or cancel driving privileges; or

4) the Department receives a questionable medical report; or

5) the Department has received an incomplete medical report in which additional information and/or clarification was requested from the competent medical specialist who did not supply such information to the Department within the 45-day period as outlined in subsection (h) of this Section;

5) 6) The Department receives notification the driver has failed to abide by any of the terms of his/her medical agreement, and the competent medical specialist will not tender a professional

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~~option-as-to-whether-the-driver-is-medically-fit-to-safely operate-a-motor-vehicle; or~~

6) The Department receives a request from a driver who wishes to have all medical reports on file with the Department reviewed by the Board; or

7) The Department receives a request from a driver who wishes to appeal a Type B, C, D, E, F, G, J01, or any other medical restriction which has been added to his/her driver's license pursuant to Section 1030.92 of this Part.

1) When a case is referred to the Medical Advisory Board for review by the Department, the case shall be initially reviewed in the following manner:

1) The Chairperson or his/her designee shall assign the case to an individual Board member based upon his/her specialty or field of expertise in medicine. The Department shall serve as a correspondent for the collection and distribution of all medical reports and/or other information between the driver and the Board.

2) Upon receipt of the case from the Department the individual Board member shall review the entire file and prepare an informal determination regarding the driver's ability to safely operate a motor vehicle to the Chairperson or his/her designee.

A) The Board member shall consider the driver's past driving record as evidenced by his/her driving abstract, medical reports, and any other medical information deemed to have probative value by the Board member regarding the driver's case.

B) The Board member shall consider any medications and/or rehabilitative devices currently being used or available to the driver.

C) The Board member shall use the medical criteria listed in Section 1030.18 of this Part when reviewing the driver's medical condition.

3) When reviewing a driver's case, the Board member may require the driver to submit him/herself to further medical examination(s) and to agree to make the results of these examinations available to the Board member for use in rendering an informal determination.

A) The driver shall be solely responsible for the selection, scheduling, and expenses related to any additional examination(s) which may be required of the driver.

B) While the Board member may designate the type of physician or medical specialist with whom the driver needs further examination, the Board member shall not recommend a particular physician or medical specialist.

C) The driver shall have up to 45 days from the date of the request to submit additional reports to the Department.

D) Any driver who refuses to submit to additional

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examination(s) as requested or refuses to make these reports available to the Board member shall be canceled or medically denied until he/she complies with the Board member's request and the Board member is able to render an informal determination to the Chairperson pursuant to Section 6-201 and 6-103 of the Illinois Vehicle Code.

4) The informal determination shall include the medical condition of the driver and the limitations associated with the condition which could reasonably impair a driver's ability to safely operate a motor vehicle; the scope of driving privilege, if any; and the reasons for the Board member's decision.

5) All stages of the informal determination process shall be made as soon as reasonably possible given the individual Board member's and Chairperson's caseload and the complexity of the case.

6) The name of the Board member rendering the informal determination shall not be disclosed to the driver under review.

m) Upon receipt to the informal determination from the Board member, the Chairperson or his/her designee shall make an informal recommendation to the Department regarding the driver's fitness to safely operate a motor vehicle and the scope of licensure, if any, including the use of mechanical devices and/or other conditions for driving.

1) The informal recommendation by the Chairperson or his/her designee shall include the existence of the medical condition and/or limitation which may impair the driver's ability to safely operate a motor vehicle.

2) The informal recommendation shall also be based upon the Findings of Fact and opinion of the individual Board member including, but not necessarily limited to, medical evaluations, reports submitted by medical specialists, medications taken by the driver, and his/her driving record, and other scientifically recognized information commonly accepted in the medical profession.

3) The informal recommendation shall also indicate the scope of driving privileges which would enable the driver to safely operate a motor vehicle, including the extent, if any, to which compensatory aids and devices which must be used and the need of future controls.

4) In the event driving privileges are restricted or denied the formal recommendation shall also state the reasoning for such restriction or denial in accordance with the medical criteria stated in Section 1030.18 of this Part.

5) The Chairperson or his/her designee shall have the authority to confer with the Board member who rendered the determination in the event the Chairperson or his/her designee needs to confirm or clarify any portion of the Board member's Formal Determination.

n) Upon receipt of the informal recommendation the Department shall take the appropriate action depending upon the recommendation of the Chairperson or his/her designee on behalf of the Board.

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- 1) If the Department receives a recommendation from the Board that in its professional opinion the driver is not medically fit to safely operate a motor vehicle, the Department shall enter an order canceling or medically denying the driver pursuant to Section 6-201 and 6-103 of the Illinois Vehicle Code.
- 2) If the Department receives a recommendation from the Board that in its professional opinion the driver is medically fit to safely operate a motor vehicle, the Department shall rescind or terminate any medically related cancellation orders and allow the driver to make application for a new driver's license pursuant to Section 1-110, 6-106, and 6-109 of the Illinois Vehicle Code ~~{1111-Rev-Stat-1997-CH-95-172-PARS-1-1107-6-106-AND-6-109}~~ [625 ILCS 5/1-110, 6-106, and 6-109] ~~{625-IBES-571-1107-576-1067 AND-576-1097}~~.
 - A) The Department shall rescind the cancellation if the cancellation was for failure to comply with a request by either the Department or the Board.
 - B) The Department shall terminate the cancellation if the cancellation was based upon a previous unfavorable medical report, and the driver is otherwise in compliance with this Section.
- o) If a driver desires to contest a restriction, cancellation, or denial of his/her driving privileges, the Department must receive a request from the driver for ~~must--request~~ a formal review of his/her case within 30 days after ~~of the receipt of~~ the action taken by the Department. Formal review of the driver's case shall be made by a panel of 3 Board members selected by the Chairperson or his/her designee based upon the Board member's specialty or field of expertise. The Board member who rendered the formal determination shall participate in the formal review process. The following procedure shall apply to a case under formal review:
 - 1) The Department shall notify the driver immediately and confirm the driver's request for Panel review within 7 working days after ~~of receipt of the same~~.
 - 2) The notice shall specifically state the driver has up to 45 days from the date of the notice to submit all additional medical reports to the Department for consideration by the Panel, if he/she so chooses.
 - 3) If the driver desires to furnish additional medical reports and/or statements he/she may do so by submitting all reports and statements together as one complete document for review by the Panel. The document must be delivered to the Department at the address as indicated on the confirmation notice.
 - 4) The Department shall at the direction of the Chairperson or his/her designee prepare and forward the entire case to the Review Panel upon receipt of the document from the driver, or a written statement from the driver indicating he/she does not wish to submit additional reports, or at the expiration of 45 days.

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- whichever occurs first.
- 5) Each member shall consider the contents of the file which was used to make the formal determination, including additional medical reports submitted by the driver on his/her behalf and new entries listed on the driver's driving record, if any. The Panel shall use the same medical criteria and procedure that apply when reviewing an individual case, including the ability to request additional medical examinations as found in subsection (1)(3) of this Section ~~{1114-SUPRA}~~. The Review Panel shall only consider evidence which exists in written form. No oral testimony shall be allowed during this type of review.
 - 6) The formal determination under Panel review shall be made as soon as reasonably possible given the Board member and Chairperson's caseload, and the complexity of the case. Panel review cases shall be given priority over the review of individual cases.
 - 7) Upon completion of the Panel ~~panel~~ review, the informal ~~formal~~ determination of each Panel review member shall be forwarded to the Chairperson or his/her designee. The informal determination ~~Formal-Determination~~ shall contain the same elements as outlined in subsection (1)(4) of this Section ~~supra~~.
 - 8) Any restriction of driving privileges, cancellation, or medical denial shall remain in effect unless and until the Department notifies the driver to the contrary.
 - p) Upon receipt of each of the Review Panel's determinations, the Chairperson or his/her designee shall make a formal recommendation to the Department regarding the driver's ability to safely operate a motor vehicle and the scope of licensure, if any, including the use of mechanical devices and/or other conditions for driving.
 - 1) The recommendation of the Chairperson or his/her designee shall be based upon the majority ruling of the review Panel member's informal determinations ~~Formal-Determinations~~.
 - 2) The Chairperson shall have the authority to confer with the members of the Review Panel in order to confirm, clarify, and formulate the recommendation to the Department.
 - 3) The Chairperson's recommendation shall contain the same elements as outlined in subsections (1)(1) through (4) of this Section ~~supra~~.
 - q) The Department shall follow the recommendation of the Chairperson or his/her designee based upon the formal determination ~~options~~ rendered by the Review Panel.
 - 1) If the Department receives a formal recommendation from the Chairperson or his/her designee to uphold the decision of the individual Board member who first reviewed the case, the action taken by the Department shall remain in effect.
 - 2) If the Department receives a formal determination ~~recommendation~~ from the Chairperson or his/her designee to amend the original determination ~~any portion of the decision~~ of the Board member who first reviewed the case, the Department shall follow the

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determination recommendation of the Panel, including the recommendation of the granting of fully or limited driving privileges or complete cancellation or denial of the driving privileges.

- 3) The driver shall be notified immediately in writing by the Department of the Panel's formal determination finding along with any change to his/her driving privileges. The driver shall be also be notified in writing of his/her right to request a medical hearing regarding the determination rendered by the Hearing Panel.

- r) A driver who wants to contest the cancellation or medical denial of his/her driver's license or his/her privileges to obtain a driver's license for medical reasons shall be entitled to a hearing in accordance with 92 Ill. Adm. Code 1001.Subparts A and E, and Section 2-118 of the Illinois Vehicle Code ~~§92-111--Adm--Code--1001-Subpart-A and-B-and-111--Rev--Stat--1991--ch--95-1/2--part--2-110~~ [625 ILCS 5/2-118].

- s) Unless a competent medical specialist has submitted a medical report indicating the physical or mental condition or disability no longer exists, the Department shall require the driver to submit a medical report at each driver's license renewal.

- 1) The Department shall notify the driver at least 30 days prior to the expiration of his/her driver's license. Such notification shall be in writing and mailed to the driver's last known address as indicated on the Department's driving record file.

- 2) The notice shall state that the driver must submit a medical report when renewing his/her driver's license.

- t) The Department shall require a driver to appear at a Driver Services facility to receive a corrected driver's license if a competent medical specialist or the Board recommends a driver's license restriction pursuant to Section 1030.92 of this Part.

- 1) The Department shall immediately provide written notification to the driver at his/her last known address as indicated on the Department's driving record file. The notice shall also state failure to comply within 20 days after of the request, will result in the cancellation of the person's driver's license pursuant to Section 6-201.5 of the Illinois Vehicle Code, provided, a subsequent medical report is not received from the same competent medical specialist indicating the medical restriction is no longer necessary.

- 2) The Department shall mail a medical card to the driver describing the restriction(s) on his/her driver's license.

- 3) The driver must abide by the restriction(s) contained on the card.

- 4) The driver upon receipt of the medical card from the Department shall carry the medical card with his/her driver's license whenever the driver operates a motor vehicle.

- 5) If a driver is canceled for failing to comply with a request from

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this Department pursuant to this subsection, and the driver subsequently complies with all requests of the Department, the cancellation shall be rescinded.

- u) The Department shall require periodic medical reports between renewals if so recommended by a competent medical specialist or the Board.

(Source: Amended at 20 Ill. Reg. 3891, effective

12/1/2000)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: The Illinois Library System Act

2) Code Citation: 23 Ill. Adm. Code 3030

3) Section Numbers: Adopted Action:

3030.20	Amendment
3030.25	Amendment
3030.30	Amendment
3030.35	Amendment
3030.80	Amendment
3030.120	Amendment

4) Statutory Authority: Implementing and authorized by the Illinois Library System Act [75 ILCS 10].

5) Effective Date of Rulemaking: February 16, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: February 16, 1996

9) Notice of Proposal Published in Illinois Register: October 13, 1995; 19 Ill. Reg. 14412.

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: No changes except for a few minor typographical changes recommended by the Joint Committee on Administrative Rules prior to submitting the Second Notice information.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Not applicable

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The process for changing the boundaries of library systems reflect recent changes in the Library System Act (P.A. 89-0188). Developmental membership in a library system is reviewed annually instead of once every three years, implementing recommendations from the Illinois State Library Advisory Committee.

16) Information and questions regarding these adopted amendments shall be directed to:

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Kathleen Bloomberg
Associate Director for Administration
Illinois State Library
300 S. Second Street
Springfield, IL 62701-1796
(217) 785-0052
Fax: (217) 782-6062
Internet: kbloom@library.sos.state.il.us

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE B: CULTURAL RESOURCES
 CHAPTER I: SECRETARY OF STATE

PART 3030

THE ILLINOIS LIBRARY SYSTEM ACT

Section	
3030.10	Definitions
3030.15	Forms
3030.20	Administration of the Act: Hearings
3030.25	Establishment of Systems
3030.30	Geographic Boundaries
3030.35	Membership in a Library System
3030.40	Contracting Libraries
3030.45	Accessing Resources and Services (Repealed)
3030.50	Service Standards
3030.55	Service to State Institutions (Repealed)
3030.60	Services to the Physically Disabled (Repealed)
3030.65	Plan of Service for a Cooperative or Multitype Library System
3030.70	Plan of Service for a Public Library System (Repealed)
3030.75	Conversion of a Cooperative Public Library System or a Public Library System to a Multitype Library System
3030.80	Liquidation
3030.85	Merger
3030.90	Finances and Records
3030.95	Governing Board
3030.100	Rules
3030.105	State Grants
3030.110	Revocation of Approval
3030.115	Suspension of a Library from Membership
3030.120	Adjustment of the Geographic Boundaries of Library Systems Transfer
3030.121	of Membership
3030.121	Administrative Review of State Librarian's Decision in Contested Cases
3030.122	Notice of Hearing
3030.123	Conduct of Hearing
3030.124	Motions
3030.125	Order of the Hearing
3030.126	Authority of Administrative Law Judge
3030.127	Record of the Hearing
3030.128	Rules of Evidence; Official Notice
3030.129	Decisions and Orders
3030.130	Annual System Reports
3030.135	Withdrawal of Membership

AUTHORITY: Implementing and authorized by the Illinois Library System Act [75 ILCS 10].

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SOURCE: Rules and Regulations for Library Systems and State Aid, November 8, 1965; rules repealed, new rules adopted and codified at 8 Ill. Reg. 16914, effective September 4, 1984; amended at 13 Ill. Reg. 1244, effective January 15, 1989; amended at 14 Ill. Reg. 20066, effective December 1, 1990; amended at 16 Ill. Reg. 10329, effective June 12, 1992; emergency amendment at 17 Ill. Reg. 9725, effective June 11, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 12449, effective July 15, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 21187, effective November 23, 1993; amended at 17 Ill. Reg. 22048, effective December 14, 1993; amended at 18 Ill. Reg. 7452, effective May 3, 1994; expedited correction at 18 Ill. Reg. 13154, effective May 3, 1994; amended at 20 Ill. Reg. **3906**, effective **February 16, 1996**.

Section 3030.20 Administration of the Act: Hearings

The State Librarian shall provide for hearings to reconsider decisions made in the administration of the Act regarding:

- The denial of approval of a library system,
- The revocation of approval of a library system,
- The denial by the State Librarian of a library's application for membership in a library system,
- The suspension of a library from membership in a library system,
- The denial of any state grant,
- The adjustment of the geographic boundaries of a library system **the transfer of a library from one system to another.**

(Source: **Repealed** at 20 Ill. Reg. **3906**, effective **February 16, 1996**.)

Section 3030.25 Establishment of Systems

- The State Librarian shall approve an application for the creation of a library system if the bylaws and plan of service of the proposed system meet the standards and objectives of Section 3 of the Act and this Part for the system area.
- Following the initial approval of a library system by the State Librarian, all adjustments to the geographic boundaries **changes in system area resulting from transfer of members**, and changes in the official population of the library system **and/or membership**, must be approved by the State Librarian.

(Source: Amended at 20 Ill. Reg. **3906**, effective **February 16, 1996**.)

Section 3030.30 Geographic Boundaries

The geographic boundaries of a library system shall be those boundaries approved by the State Librarian. In setting geographic boundaries, the State

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Librarian shall place primary importance on the statewide implications for resource sharing, the efficient use of public funds, the impact on affected libraries of all types, and the impact on services provided by the affected library systems coincide with the boundaries of the public libraries which are members of the system; in cases where a public library is not a member of a library system or where there is an area that is not served by a public library, the area in question shall be assigned to the system that surrounds it. After the primary considerations have been addressed if the area in question borders on two or more systems, the State Librarian may also take shall assign it to a system taking into consideration such factors as transportation, marketing area, geography, cultural orientation, and the boundaries of educational units in the area in making a final determination of the geographic boundary being considered. All library system boundaries shall be contiguous except where a public library is surrounded by a public library system; in such cases the public library may join the nearest cooperative or multitype library system.

(Source: Amended at 20 Ill. Reg. 3906, effective _____)

Section 3030.35 Membership in a Library System

The State Librarian shall approve the application of a library for membership in a library system when the library is located within the geographic boundaries of the library system and meets the criteria for one of the two following membership categories:

- a) Developmental membership:
 - 1) A public library that is applying for developmental membership in any library system shall meet either the financial requirements for state per capita grants to public libraries as stated in the Act or levy a tax that produces a revenue of \$6.00 per capita.
 - 2) A library applying for developmental membership in a multitype library system shall be a library of one of the types of libraries defined in Section 3030.10 of this Part and meet the definition of "library" in Section 3030.10 of this Part.
 - 3) The governing board of the library system in which the library has applied for membership shall have approved the application in accordance with its bylaws and/or rules.
 - 4) The library applying for membership shall certify to the State Librarian that it will meet the requirements of this Part and of the plan of service of the library system in which it becomes a developmental member.
 - 5) A developmental library is entitled to the following services from the library system of which it is a member: consulting, continuing education, and system communications. A library in this membership category also meets the library system membership requirement for State state grants. A library is eligible for developmental membership for five three years, with-up-to-two

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~~renewable--terms--of--these--years~~ if annual progress has been made towards meeting the "full member" criteria which is defined in this Part. An additional year of developmental membership may be granted to a library if the library system determines that extraordinary circumstances interrupted progress toward meeting the criteria for full membership. Representatives from developmental member libraries are not eligible for system board seats.

- 6) As part of the application for developmental membership, the library shall submit a developmental plan which sets forth the library's annual goals and explains how the library will meet the criteria for full membership in the library system. The developmental member shall report annually to the library system on which goals have been met and on any deviations from the plan to become a full member of the system.

b) Full membership:

- 1) The library will meet any additional membership requirements specified by the library system.
- 2) A full member is entitled to the library system services for which it meets system requirements and must follow the ILLINET Interlibrary Loan Code (1991, Office of the Secretary of State, Illinois State Library, Room 505, 300 S. Second Street, Springfield, IL 62701-1796). The material incorporated by reference includes no later amendments or editions. A full member is also eligible for voting representation on the Board of Directors. The full member shall also provide reciprocal borrowing to resident patrons of other public libraries that are full members of the library system and shall also honor library cards issued to non-residents of the system area that are valid for system-wide use.

Membership criteria is subject to prior approval of the State Librarian who will review the criteria to make sure that the criteria addresses state legislation and rules and is equitable among different types of libraries. Library system members may not be charged fees for membership in the library system.

(Source: Amended at 20 Ill. Reg. 3906 \equiv 3, effective _____)

Section 3030.80 Liquidation

- a) Upon receipt of an application to terminate a system and to cause a liquidation thereof, the State Librarian shall:
 - 1) Poll the adjoining systems to assess to what extent and at what date any such adjoining systems can provide, to all or part of the service area of the liquidating system, a level of service equal to that provided by the liquidating system; and
 - 2) Assess whether and to what extent adjoining systems can assume

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and absorb the assets and liabilities of the system proposed to be liquidated.

- b) The board of directors of the library system shall develop the plan of liquidation for approval of the State Librarian. Such plan shall contain:

- 1) Complete list of all liabilities for the library system
- 2) Complete list of all assets of the library system, including detailed equipment descriptions
- 3) Proposals for distribution of all assets and liabilities
- 4) A plan for the orderly transition of system services.
- c) All distribution of assets (including equipment items and real property) and liabilities shall be with the approval of the State Librarian.

- d) The sale of any equipment or real property requires the prior approval of the State Librarian. Every effort shall be made to offer equipment items for the continuance of member services.

- e) Once the State Librarian has determined that one or more of the adjoining systems meet the conditions stated above, the member libraries within the service area of the liquidating system will be notified that they may apply for membership to a new library system serving that area.

- f) The State Librarian shall solicit and consider information regarding proposed boundary adjustments from **consider** each of the affected libraries **member-applications** before making the final determination as to the geographic boundaries of the library systems in the area previously served by the liquidating system **system-of-which-each library-shall-become-a-member**.

(Source: Amended at 20 Ill. Reg. **3906**, effective **FLU 16 2006**)

Section 3030.120 Adjustment of the Geographic Boundaries of Library Systems Transfer-of-Membership

- a) The State Librarian may direct the Illinois State Library Advisory Committee to review the geographic boundary in a specific area, or the existing geographic boundaries for all library systems, whenever one or more of the following conditions are present.

- 1) There is new demographic information available from a federal census or other sources.
- 2) Two or more library systems request that the State Librarian review a shared boundary in a specific area of the State.
- 3) A change in library management practices, governance, funding, or technology significantly impacts one of the factors considered in Section 3030.30 of this Part.

- b) The Illinois State Library Advisory Committee will notify libraries and library systems that would be directly affected by a proposed adjustment of a geographic boundary that the boundary is being

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reviewed and will provide them with the following information:

- 1) A general description of the boundary adjustment that is being considered.
- 2) The effect that the boundary adjustment would have on system membership in the area under review.
- 3) The criteria from Section 3030.30 of this Part that are being used to evaluate the proposed boundary adjustment.
- 4) The date by which comments on the proposal must be received by the Illinois State Library and the address to which comments must be sent.
- 5) The date, time, and location of the meeting at which the Illinois State Library Advisory Committee will discuss the proposed adjustment to geographic boundaries.

- c) The Illinois State Library Advisory Committee will review the information which prompted the proposed adjustment, the comments received from potentially affected libraries and library systems, and any other information that may be provided by the Illinois State Library, and will hold a meeting to discuss the proposed adjustments to geographic boundaries.

- d) The Advisory Committee will make a recommendation to the State Librarian on each suggested adjustment to the geographic boundaries of library systems.

- e) The State Librarian shall issue a final decision regarding the proposed boundary adjustment after reviewing the recommendation of the Illinois State Library Advisory Committee and any information presented to the Advisory Committee in accordance with the criteria set forth in Section 3030.30 of this Part.

- f) When boundary adjustments are approved, the area and population of the affected library systems shall be adjusted at the beginning of the State fiscal year that commences at least eight months after, but no more than twenty months after, the final decision by the State Librarian.

- a) A public library seeking a transfer from one system to another shall furnish the following information along with its application to the library system affected:

- 1) A statement indicating how its constituents will be affected by changes in service patterns if the transfer is carried out.
- 2) Statements or evidence that it has solicited such statements from the other libraries in its geographic service taxing area which are members or affiliates of the system, indicating how the proposed transfer would affect their operations or services to constituents.
- b) In reviewing the application for transfer, the State Librarian shall require statements from both of the library systems affected indicating the effect of the proposed transfer on the operations and service levels of the system as a whole and of their member libraries. After reviewing the application, the State Librarian shall provide for the transfer if he determines that neither of the systems affected nor

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~~the majority of the libraries in the geographic area proposed to be transferred will incur a loss of access to resources or increase in the costs of operations that would reduce the level of service or reduce or impede the development of cooperation among libraries in either of the systems concerned so that one of the systems can no longer fulfill its plan of service.~~

(Source: Amended at 20 Ill. Reg. 3906, effective

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- 1) Heading of the Part: Division of Specialized Care for Children: Public Information, Rulemaking and Organization
- 2) Code Citation: 2 Ill. Adm. Code 5155
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
5155.100	Amendments
5155.130	Amendments
5155.200	Amendments
5155.210	Amendments
5155.300	Amendments
5155.Appendix A	Amendments
5155.Appendix B	Amendments
- 4) Statutory Authority: Implementing Section 1 of "AN ACT enabling the University of Illinois to qualify for Federal funds and aid in relation to the administration of the Division of Specialized Care for Children" [110 ILCS 345/1] and The Freedom of Information Act [5 ILCS 140/1 et seq.] and authorized by Section 1 of "AN ACT to provide for the organization and maintenance of the University of Illinois" [110 ILCS 305/1], by Section 4.01 of The Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.], The Freedom of Information Act [5 ILCS 140/1 et seq.], State Records Act [5 ILCS 160/1 et seq.], and Open Meetings Act [5 ILCS 120/1 et seq.].
- 5) Effective Date of Amendments: February 14, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: February 1, 1996
- 9) Notice of Proposal Published in Illinois Register: N/A (Internal Rules)
- 10) Has JCAR issued a Statement of Objections to this amendment? N/A (Internal Rules)
- 11) Difference between proposal and final version: N/A (Internal Rules)
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A (Internal Rules)
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No

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15) Summary and Purpose of Amendments:

Name change of the agency from Services for Crippled Children to Specialized Care for Children, address updates for the central and regional offices, and changes to the organizational chart.

16) Information and questions regarding this adopted amendment shall be directed to:

Robert F. Biehl, M.D., Director
Division of Specialized Care for Children
2815 West Washington, Suite 300
P.O. Box 19481
Springfield, IL 62794-9481
Telephone: (217) 793-2340

The full text of the Adopted Amendments begins on the next page.

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE F: EDUCATIONAL AGENCIES

CHAPTER VII: BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

PART 5155

DIVISION OF SPECIALIZED CARE FOR SERVICES-POR-ERIPP5EB

CHILDREN-:

PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section

5155.100

Applicability

5155.110

Information on Services Available through DSCC

5155.120

Public Requests for Information on Services Available through DSCC

5155.130

Public Requests for Access to Public Records of DSCC

SUBPART B: RULEMAKING

Section

5155.200

Procedure

5155.210

Public Hearings

SUBPART C: ORGANIZATIONAL STRUCTURE

Section

5155.300

Administrative Structure

5155.310

Service Structure

APPENDIX A

Location of Central and Regional Offices

APPENDIX B

Organizational Chart

AUTHORITY: Implementing Section 1 of "AN ACT enabling the University of Illinois to qualify for Federal funds and aid in relation to the administration of the Division of Specialized Care for Children" [110 ILCS 345/1] and The Freedom of Information Act [5 ILCS 140/1 et seq.] and authorized by Section 1 of "AN ACT to provide for the organization and maintenance of the University of Illinois" [110 ILCS 305/1], by Section 5-15 of The Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.], The Freedom of Information Act [5 ILCS 140/1 et seq.], State Records Act [5 ILCS 160/1 et seq.], and Open Meetings Act [5 ILCS 120/1 et seq.].

SOURCE: Adopted at 10 Ill. Reg. 3672, effective February 4, 1986; amended at 20 Ill. Reg. **3918**, effective FEB 1 1988.

SUBPART A: PUBLIC INFORMATION

Section 5155.100 Applicability

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This Section applies to any interested persons seeking information regarding subjects, programs and activities of the University of Illinois Division of Specialized Care for ~~Services-to-Enfranchised~~ Children ("DSCC").

(Source: Amended at 20 Ill. Reg. 3918, effective 1-1-85)

Section 5155.130 Public Requests for Access to Public Records of DSCC

Access to public records of the University of Illinois, Division of Specialized Care for ~~Services-to-Enfranchised~~ Children under the State Records Act [5 ILCS 160/1 et seq.] (~~111-Rev-Stat-1983-ch-116-par-43-4-et-seq.~~) and The Freedom of Information Act [5 ILCS 140/1 et seq.] (~~111-Rev-Stat-1984-Supp-7 ch-116-par-20-et-seq.~~) is governed by Access to Public Records of the University of Illinois (2 Ill. Adm. Code 5151).

(Source: Amended at 20 Ill. Reg. 3918, effective 1-1-85)

SUBPART B: RULEMAKING

Section 5155.200 Procedure

- a) Rules may be proposed by the Advisory Board for Specialized Care for ~~Services-to-Enfranchised~~ Children (Advisory Board) or the Director of the Division of Specialized Care for ~~Services-to-Enfranchised~~ Children. However, rules shall be issued only by the Board of Trustees of the University of Illinois.
- b) Any interested person may petition the Director of DSCC to make, amend or repeal a rule. The Director shall decide whether or not to recommend further action. A denial of a petition shall be made by the Director in writing and shall state the reasons for the denial.

1) The petition shall be addressed to:

Director
Division of Specialized Care for Children DSCC
2815 West Washington, Suite 300

P.O. Box 19481

2049-Hall-Meadows-Drive-Suite-A

Springfield, Illinois 62794-9481 62702-4698

- 2) The petition shall contain a clear statement of reasons for the proposed rule, amendment or repeal and the exact language of the new rule or amendment.

- c) All rules promulgated by DSCC shall be in accordance with the procedures for issuing proposed rules and for their ultimate adoption in accordance with The Illinois Administrative Procedure Act [5 ILCS 100-1-1 et seq.] (~~111-Rev-Stat-1983-ch-127-par-100-et-seq.~~).

- d) Rules adopted by DSCC shall be available for public inspection during normal working hours at 2815 West Washington, Suite 300 2040-Hall

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~~Meadows-Drive-Suite-A~~ Springfield, Illinois 62794-9481 62702-4698.

(Source: Amended at 20 Ill. Reg. 3918, effective 1-1-85)

Section 5155.210 Public Hearings

- a) The Director may convene public hearings on proposed rulemaking whenever the interest of the University would be best served by such proceedings in order to establish a record of public comment, or when the same is required by law.
- b) Formal notice of a public hearing shall be given upon at least ten (10) business days notice in accordance with the Open Meetings Act (~~111-Rev-Stat-1983-ch-102-par-41-et-seq.~~). The notice shall include the date, time and place of the proceedings.
- c) Minutes of public hearings shall be recorded and shall be available for public inspection.

(Source: Amended at 20 Ill. Reg. 3918, effective 1-1-85)

SUBPART C: ORGANIZATIONAL STRUCTURE

Section 5155.300 Administrative Structure

The Board of Trustees of the University of Illinois (sometimes referred to herein as "University of Illinois") is responsible for the administration and management of its Division of Specialized Care for ~~Services-to-Enfranchised~~ Children in accordance with the Specialized Care for Children Act [110 ILCS 345/1] and the University of Illinois Act [ILCS 110 305/1] and has delegated operational authority to its Vice Chancellor for Health Services ~~Affairs~~, under the overall direction of the Chancellor of the University of Illinois at Chicago. An appointed Director is responsible for the day-to-day operation of DSCC. DSCC functions in accordance with the various fiscal and personnel policies, rules and directives of the University of Illinois and with applicable state and federal statutes and regulations.

(Source: Amended at 20 Ill. Reg. 3918, effective 1-1-85)

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Section 5155.APPENDIX A Location of Central and Regional Offices

Central-Office:

University-of-Illinois
 Division-of-Services-for-Disabled-Children
 2440 Hill-Meadows-Drive-Suite-A
 Springfield-Illinois-62762-4698
 (217)-793-2350

Regional-6-District-Offices:

CHAMPAIGN-REGIONAL-OFFICE
 State-Regional-Office-Bldg
 2125-South-First-Street
 Champaign-Ill-61820
 (217)-333-6520

CHICAGO-REGIONAL-OFFICE
 1919-West-Taylor
 7th-Floor
 Chicago-Ill-60612
 (312)-996-3550

E.-ST.-LOUIS-REGIONAL-OFFICE
 State-Regional-Office-Bldg
 #10-Collinsville-Avenue
 Room-197
 East-St.-Louis-Ill-62201
 (618)-875-3900-Ext.-353

SPRINGFIELD-REGIONAL-OFFICE
 State-Reg.-Office-Bldg
 Room-197
 4500-St.-Sixth-Street-Rd
 Springfield-Ill-62703
 (217)-706-6807

MARION-REGIONAL-OFFICE
 State-Regional-Office-Bldg
 2209-West-Main-St
 Marion-Ill-62959
 (618)-997-4371-Ext.-232

PEORIA-REGIONAL-OFFICE
 State-Reg.-Office-Bldg
 Room-106
 5415-No.-University-Ave
 Peoria-Ill-61614
 (309)-691-2200-Ext.-221

ROCKFORD-REGIONAL-OFFICE
 State-Reg.-Office-Bldg
 4302-N.-Main-Street
 Room-105
 Post-Office-Box-915
 Rockford-Ill-61105
 (815)-987-7571

SHREVEPORT-REGIONAL-OFFICE
 State-Reg.-Office-Bldg
 1205-B-South-West-St
 Shreveport-Ill-62450
 (618)-395-0461

ROCK-ISLAND-DIST-OFFICE
 2202--10th-Avenue
 Rock-Island-Ill-61202
 (309)-700-4300

Central Administrative Office:
 University of Illinois
 Division of Specialized Care for Children

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

2815 West Washington, Suite 300, P.O. Box 19481
 Springfield, IL 62794-9481
 (217) 793-2350 (Voice)

Regional Offices:

CHAMPAIGN Regional Office
 State Regional Office Building
 2125 South First Street
 Champaign, IL 61820-7401
 (217) 333-6528 (Voice)
 (217) 244-8390 (TDD)

Chicago, City of:

METRO CENTRAL Regional Office
 1919 West Taylor Street, Rm. 701
 Chicago, IL 60612-7254
 (312) 996-7055 (Voice)
 (312) 413-3896 (TDD)

METRO NORTH Regional Office

1919 West Taylor Street, Rm. 701
 Chicago, IL 60612-7254
 (312) 996-2723 (Voice)
 (312) 996-7584 (TDD)

METRO SOUTH Regional Office

1919 West Taylor Street, Rm. 722
 Chicago, IL 60612-7254
 (312) 996-5753 (Voice)
 (312) 413-3894 (TDD)

DUPAGE Regional Office

8205 South Cass Ave., Suite 110
 Darien, IL 60561-5319
 (708) 964-9887 (Voice)
 (708) 964-9603 (TDD)

EAST ST. LOUIS Regional Office

State Regional Office Building
 #10 Collinsville Ave., Rm. 102
 East St. Louis, IL 62201-3005
 (618) 583-2220 (Voice)
 (618) 875-3902 (TDD)

MARION Regional Office

State Regional Office Building
 2309 West Main Street
 Marion, IL 62959-1195

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

(618) 997-4396 (Voice)
 (618) 993-2481 (TDD)

Chicago Administrative Satellite Office:
 University of Illinois at Chicago
 Division of Specialized Care for Children
 1919 West Taylor, 8th Floor
 Chicago, IL 60612-7255
 (312) 996-6380 (Voice)

NORTHEASTERN Regional Office
 1919 West Taylor, Rm. 714
 Chicago, IL 60612-7254
 (312) 996-9063 (Voice)
 (312) 996-3099 (TDD)

OLNEY Regional Office
 702 West High Street
 P.O. Box 159
 Olney, IL 62450-0159
 (618) 395-8461 (Voice)
 (618) 392-3869 (TDD)

PEORIA Regional Office
 State Regional Office Building, Rm. 106
 5415 North University Avenue
 Peoria, IL 61614-4779
 (309) 693-5350 (Voice)
 (309) 693-5345 (TDD)

ROCKFORD Regional Office
 State Regional Office Building, Rm. 106
 4302 North Main Street
 Rockford, IL 61103-1209
 (815) 987-7571 (Voice)
 (815) 987-7995 (TDD)

ROCK ISLAND Regional Office
 Rock Valley Office Park
 4711 - 44th Street, Suite #1
 Rock Island, IL 61201-7169
 (309) 788-4300 (Voice)
 (309) 788-6443 (TDD)

SPRINGFIELD Regional Office
 Quantum Centre, Second Floor
 421 South Grand West
 Springfield, IL 62704-3769

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

(217) 524-2000 (Voice)
 (217) 524-2011 (TDD)

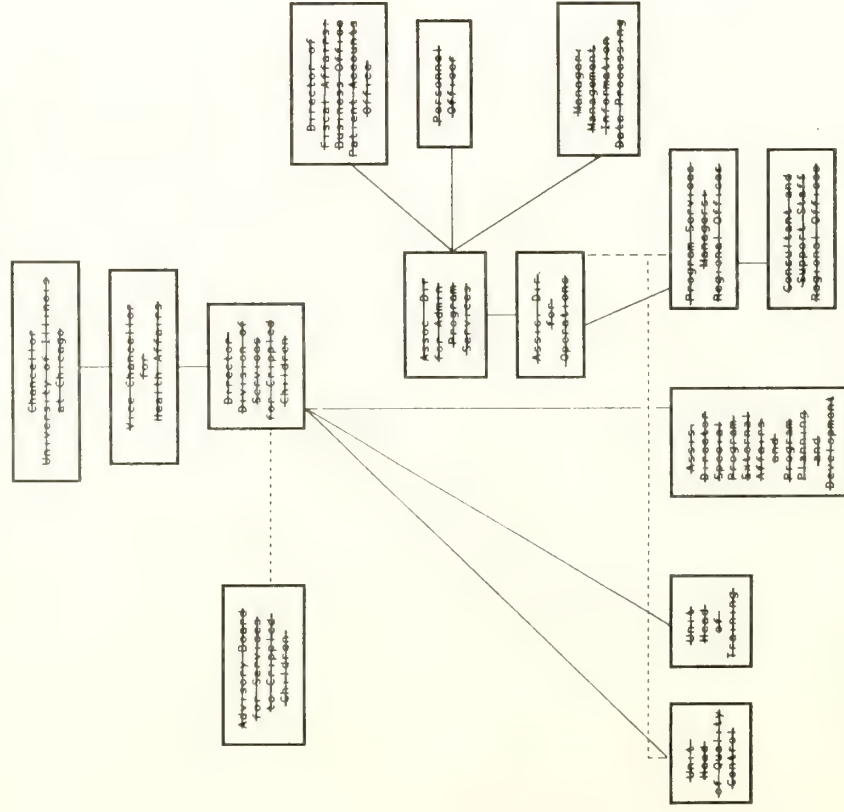
(Source: Amended at 20 Ill. Reg. 3918, effective
 1-1-76)

BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

TEXT OF ADOPTED RULES

APPENDIX B--Organizational Chart

UNIVERSITY OF ILLINOIS
DIVISION OF SERVICES FOR CRIPPLED CHILDREN

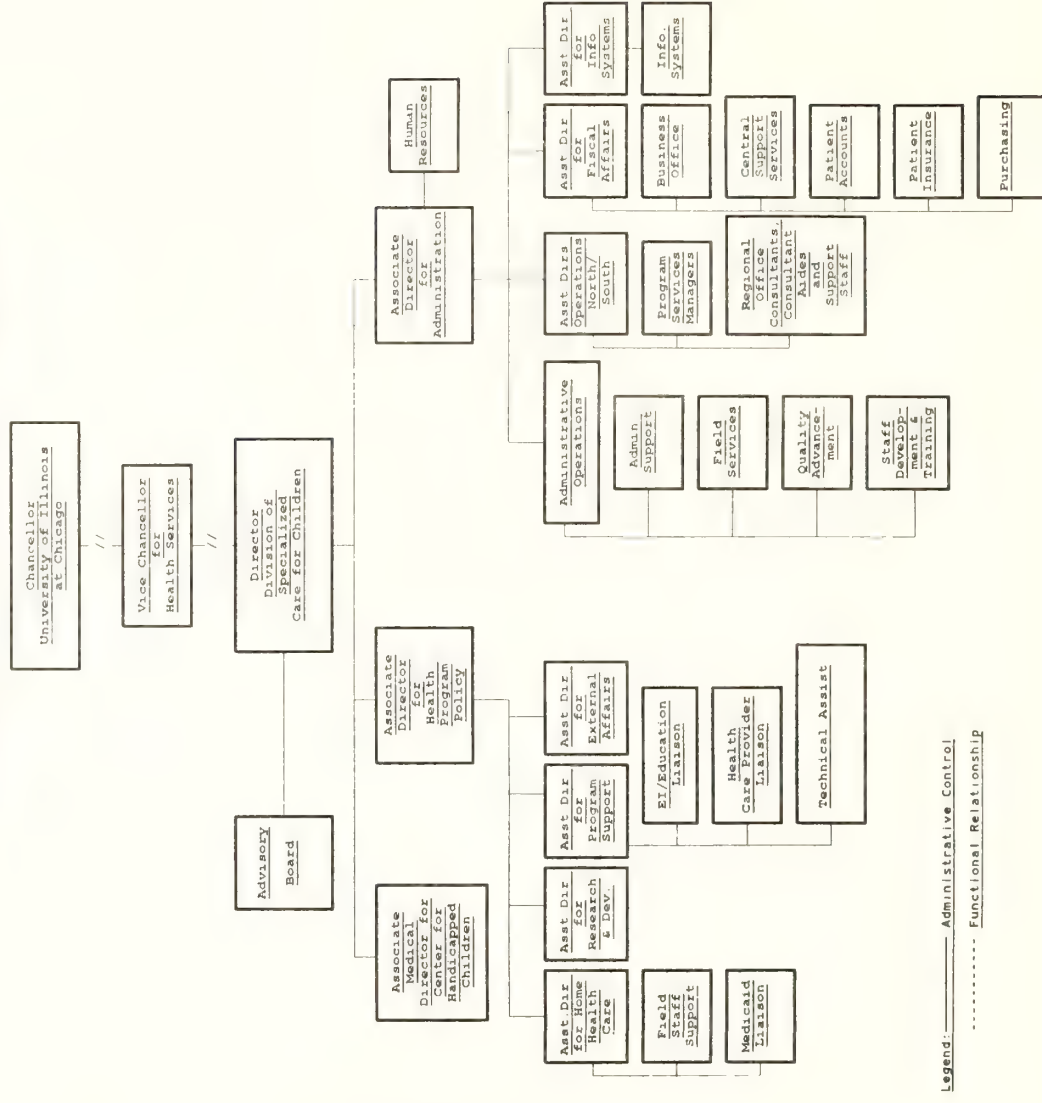


Legend: _____ Administrative Control
----- Functional Relationship

BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS
NOTICE OF ADOPTED AMENDMENTS

SECTION 5155, APPENDIX B - Organizational Chart

UNIVERSITY OF ILLINOIS AT CHICAGO
DIVISION OF SPECIALIZED CARE FOR CHILDREN



Legend: _____ Administrative Control
----- Functional Relationship

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

3918

(Source: Amended at 20 Ill. Reg. effective

FEB 1, 1996)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Background Checks2) Code Citation: 89 Ill. Adm. Code 3853) Section Numbers:

385.10	Amend
385.20	Amend
385.30	New
385.40	New
385.50	Renumber, Amend
385.60	Renumber, Amend
385.70	Renumber, Amend
385.80	New
385.90	New
385.100	Renumber, Amend
385.Appendix A	New

4) Statutory Authority: 225 ILCS 105) Effective Date of Amendments: March 1, 1996

6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable

7) Date Filed In Agency's Principal Office: February 20, 1996

8) Reason for Emergency: The Department is filing these emergency amendments to protect the safety and welfare of children who may be at risk because persons with a history of criminal activity or child abuse/neglect are employed in a child care facility or residing in a family home from which a child care facility operates. This is especially a concern when it involves persons who have been declared sexually dangerous under Article 105 of the Code of Criminal Procedure of 1963 or who have committed serious felony offenses, as identified in Appendix A of these emergency amendments. Children are also at risk because their legal parents fail to pay child support ordered by the court. The Department is implementing an important child support initiative via these emergency amendments by linking receipt of a license to certification that the license applicant is not more than 30 days delinquent in payment of child support.

9) A Complete Description of the Subjects and Issues Involved: These emergency amendments to these rules require criminal history checks for all applicants for a license to operate a child care facility and other persons subject to background checks, as defined in the Part. This includes a check of the Statewide Child Sex Offender Database (effective June 1, 1996), and certification from each license applicant/licensee that he or she is not more than 30 days delinquent in child support. Licenses

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will not be issued to persons who are more than 30 days delinquent in child support unless each license applicant/licensee pays the delinquent child support or, if they are unable to pay the full amount, arranges a payment plan with the Department of Public Aid or the court of jurisdiction.

Criminal history checks of adults will be completed via the use of fingerprints, whereas criminal history checks of persons ages 13 through 17 will be completed via the Law Enforcement Agency Data System (LEADS). The amendments also require that all persons age 13 and over who are members of the household in which a child care facility operates must authorize and submit to background checks, as required by this Part. The amendments describe how criminal convictions are to be evaluated and provide a list of serious criminal convictions and pending criminal charges which serve as a bar to licensure/employment.

In a similar manner, the amendments establish the presumption that persons who have been indicated as the perpetrator of child abuse/neglect are not suitable for employment which involves contact with children, but allow the licensing entity or the employer to request a waiver of the presumption of unsuitability for good cause.

The rules also allow for a decision review process to correct cases of mistaken identity or to consider additional evidence of the person's suitability for licensure to operate a child care facility.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Information and questions regarding these rules shall be directed to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #222
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715

The full text of the emergency amendments begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 385
BACKGROUND CHECKS

Section	
385.10 Purpose	
EMERGENCY	
385.20 Definitions	
EMERGENCY	
385.30 Applicability of This Part	
EMERGENCY	
385.40 Criminal Convictions and Pending Criminal Charges	
EMERGENCY	
385.50 385-30 Child Abuse or Child Neglect	
EMERGENCY	
385.60 385-40 Authorization for Background Checks <u>Investigation</u>	
EMERGENCY	
385.70 385-50 Disposition of Background Checks <u>Investigation</u>	
EMERGENCY	
385.80 Department Review of Decisions to Deny License	
EMERGENCY	
385.90 385-60 Records To Be Maintained <u>by the Child Care Facility</u>	
EMERGENCY	
385.100 385-70 Severability of This Part	
EMERGENCY	
APPENDIX A Criminal Convictions Preventing Licensure or Employment	
EMERGENCY	

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]

SOURCE: Emergency rules adopted at 10 Ill. Reg. 19123, effective October 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 6398, effective March 31, 1987; amended at 13 Ill. Reg. 5917, effective May 1, 1989; emergency amendment at 20 Ill. Reg. _____, effective March 1, 1996.

Section 385.10 Purpose
EMERGENCY

The purpose of this Part is to ensure the safety and well-being of children cared for in any facility subject to licensing ~~licensed~~ by the Department of Children and Family Services by requiring that the operators of child care facilities and other persons subject to background checks, as defined in Section 385.20, their--employees be screened for a history of possible child abuse or child neglect, prior criminal activities or pending criminal charges.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

In addition, the Department may require purchase of service providers who have contact with children as part of their duties to authorize a background check, as required by this Part. ~~Such screening is a condition of licensure or employment in child care facilities as such facilities are defined by the Child Care Act of 1969 (Ill. Rev. Stat., 1985, ch. 23, par. 2-2.1; et seq.), and this Part shall be construed in conjunction with the licensing standards for the type of facility for which license or employment is sought.~~

(Source: Emergency amendment at 20 Ill. Reg. **3930**, effective March 1, 1996, for a maximum of 150 days)

Section 385.20 Definitions
EMERGENCY

"Adult" means any person who is 18 years of age or older.

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home, group day care home, or foster family home.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database (beginning June 1, 1996); and

- a check of child support records to determine whether each licensee or license applicant is delinquent in paying an order of child support.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Illinois Department of Children and Family Services.

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed or who applies for a license as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05] ~~"Child care facility" means any person, group of persons, agency, association or organization which arranges for care or care for children unrelated to the operator of the facility, apart from the parents in any facility as defined in the Child Care Act of 1969. Child care facilities may be established for profit or not for profit. A child care facility may consist of distinct unit(s), division(s), or department(s) of a multi-function agency. "Child care facility" is further defined in Section 2.05 of the Child Care Act of 1969. As used in this Part, "child care facility" means any child care institution, maternity center, child welfare agency, day care center, day care agency, group home, foster family home, or day care home, group day care home, or youth emergency shelter as defined by the Child Care Act of 1969.~~

"Conditional employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of children) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that involve contact with children as part of the job duties in the present or prospective employment and who has commenced such duties while awaiting the results of the background check required by this Part.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Denial of application for license" means the refusal to grant a license to a person, group of persons, agency, association or organization that applied for a license to operate a child care facility.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Director" means the Director of the Illinois Department of Children and Family Services.

"Employee", as used in this Part, means any staff person employed by a

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child care facility, and includes any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren). This definition includes administrative, professional and other support staff who have contact with children as part of the duties in the present or prospective employment.

"Governing body," as used in this Part, means the board of directors of a corporation; otherwise, the term means the owner(s) or other person(s), agency, association or organization legally responsible for the operation of the child care facility.

"LEADS" means Law Enforcement Agency Data System.

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed. ~~"Licensee--applicant"--means--the--operator--or--person--with--direct responsibility--for--daily--operation--of--the--facility--to--be--licensed--"~~

"Licensing representative," for purposes of this Part, means Department staff authorized under the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in the household of a family home as evidenced by maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

~~"Minor traffic violation", as used in this Part, means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])~~

"Multi-function agency," as used in this Part, means an agency, association, or other organization which operates a child care facility, child welfare agency, or day care agency in addition to among other services not subject to licensure under the Child Care Act of 1969. A child care facility, child welfare agency, or day care agency may consist of distinct unit(s), division(s), or department(s) of a multi-function agency. In a multi-function agency, only the persons with direct authority for the operations of the child care facility and those who have contact with children as part of the

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duties in the present, prospective, or conditional employment are subject to the background check requirements of this Part.

"Operator" means the person(s) responsible for the day-to-day management of the child facility. If the governing body is a partnership, association, or corporation, "operator" means the chief executive officer or other persons serving in like capacity.

"Persons subject to background checks" means the operator(s) of the child care facility, and all current, conditional and prospective employees of the child care facility, as defined in this Section. If the child care facility operates in a family home, the license applicant(s) and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Prospective employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren)) selected by the governing body or operator of a child care facility who has met the qualifications for his or her position with the exception of the background check investigation required by this Part and a medical examination (if required by applicable licensing standards) and who has not yet commenced employment.

"Purchase of service provider" means an agency or individual(s) offering services to Department client(s) through a signed contract with the Department.

"Review" means the Department's reconsideration of a decision to deny licensure based upon a record as a perpetrator of child abuse or neglect, a prior criminal history or pending criminal charges.

"State Central Register" means the child abuse and neglect data system maintained by the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 40]. ~~(111--Rev--Stat--1985--Ch--237 pars--2251-et-seq--)~~

"Statewide Child Sex Offender Registry" means the registry of felony child sex offenders operated and maintained by the Illinois State Police.

"Substitute" means a permanent or temporary employee(s) who is used to replace or supplement regular staff.

"Supervising agency" means a licensed child welfare agency, a license exempt agency, or the Department of Children and Family Services.

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NOTICE OF EMERGENCY AMENDMENTS

(Source: Emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days)

Section 385.30 Applicability of This Part
EMERGENCY

a) Effective Date of Emergency Amendments

These emergency amendments become effective March 1, 1996.

b) Scope of Background Checks

1) All persons subject to background checks pursuant to this Part shall be processed through the Child Abuse and Neglect Tracking System (CANTS) and the Statewide Child Sex Offender Database (beginning June 1, 1996). Fingerprints of all persons age 18 and over shall be submitted to the Illinois State Police for a criminal history check. A Law Enforcement Agency Data System (LEADS) check shall be completed for all persons ages 13 through 17 who are subject to background checks, as defined in Section 385.20. In addition, the license applicant(s) must certify under penalty of perjury that he or she is not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license. [5 ICS 100/10-65(c)]

2) Fingerprints for the following persons age 18 and over shall be submitted to the Federal Bureau of Investigation (FBI) for a search of its records for evidence of prior criminal activity:

A) persons who have a record of criminal activity which may impact their suitability for licensure/employment by their own acknowledgment or according to the records of the Illinois Department of State Police; and

B) persons who have resided in the State of Illinois for five years or less.

c) A Condition of Employment or Volunteer Service

As a condition of employment and continuing employment in a licensed child care facility in a position which involves contact with children, all persons who begin employment or volunteer service on or after March 1, 1996, shall complete and sign authorizations for background checks. This applies to all prospective and conditional employees subject to background checks, as defined in Section 385.20, and to volunteers used to replace or supplement staff in the direct care and supervision of children. Complete, signed authorizations must be received by the Department of Children and Family Services within ten calendar days after the person's employment or the beginning of the volunteer service.

d) Entities with Application for Initial License Pending as of March 1, 1996

Child care facilities which have an application for initial license pending as of March 1, 1996 must submit a list of all persons subject

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

to background checks along with complete signed authorizations for every person subject to background checks, as required by these amendments, for the initial application to be considered complete. The list of persons subject to background checks and complete signed authorizations for background checks must be submitted to the Department of Children and Family Services postmarked no later than March 16, 1996.

e) Child Care Facilities that Operate Within a Family Home

If the child care facility operates in a family home, adult members of the household shall be fingerprinted to be screened for prior criminal activities and current pending criminal charges in accordance with the requirements of this Part. Members of the household ages 13 through 17 shall be screened for prior criminal activities via the LEADS system. All household members age 13 and over shall be screened for a history of child abuse or neglect and, beginning June 1, 1996, for inclusion in the Statewide Child Sex Offender Database. These background checks are required even if members of the household usually are not present in the home during the hours the child care facility is in operation.

f) Responsibility for Cooperation

Child care facilities shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representative(s). Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:

1) death in the family of the person; or

2) serious illness of the person or illness in the person's immediate family.

g) Limitations of Criminal Offenders

Persons age 18 and over who have been convicted of committing or attempting to commit the offenses in Section 385.40(a) or (b) (when applicable) and persons age 13 and over who are included in the Statewide Child Sex Offender Database shall not:

1) receive a license from the Department to operate a child care facility; or

2) be employed by a child care facility licensed by the Department in a position which involves contact with children as part of the duties; or

3) be a member of the household in a family home in which a child care facility operates; or

4) obtain a contract from the Department to provide services which require contact with children as part of their duties, if the requirement for such background checks are a condition of the contract.

h) Limitations of Perpetrators of Child Abuse/Neglect

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Persons who have been indicated as the perpetrator of the child abuse/neglect allegations identified in Section 385.50(a) are presumed to be unfit for service which involves contact with children. These indicated perpetrators are limited in the same manner as the criminal offenders in subsection (g) above unless the Director or designee has waived the presumption of unsuitability. Such waivers may be requested in accordance with Section 385.50(b).

(Source: Emergency amendment added at 20 Ill. Reg. **3930** effective March 1, 1996, for a maximum of 150 days)

Section 385.40 Criminal Convictions and Pending Criminal Charges**EMERGENCY**

a) Convictions that Serve as Bar to Licensure/Employment Involving Contact with Children

Persons with certain serious criminal convictions shall not receive a license from the Department of Children and Family Services or be employed in a licensed child care facility in a position that involves contact with children as part of the duties or reside in a family home in which a child care facility operates. This includes persons who have been:

- 1) declared a sexually dangerous person under Article 105 of the Code of Criminal Procedure of 1963 or identified as a child sex offender in the Statewide Child Sex Offender Database operated by the Illinois Department of State Police; or
- 2) convicted of committing or attempting to commit any of the offenses specified in Appendix A of this Part which are defined by the Criminal Code of 1961 [720 ILCS 5] or any earlier Illinois criminal law or code; or
- 3) convicted of committing or attempting to commit an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified in Appendix A of this Part.

b) Special Provisions for Foster Family Homes

In addition to the provisions set forth in subsection (a) above, no applicant may receive a license from the Department to operate a foster family home, and no person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Appendix A, Criminal Convictions Which Prevent Licensure of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes or who is included in the Statewide Child Sex Offender Database.

c) Assessment of Criminal Convictions

Except as specified in subsections (a) and (b) of this Section, an individual convicted of a crime will not automatically be prohibited from licensure or employment in a child care facility or from obtaining a contract with the Department to provide services which

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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require contact with children as part of their duties. Instead, the following shall be considered:

- 1) the nature of the crime for which the individual was convicted;
- 2) the circumstances surrounding the commission of the crime, including the age of the individual, that would demonstrate a low likelihood of repetition;
- 3) the period of time that has elapsed since the crime was committed and the number of crimes for which the individual was convicted;
- 4) evidence of rehabilitation such as successful participation in therapy since conviction;
- 5) granting by the Governor of a full and unconditional pardon or overturn of the conviction upon appeal;
- 6) character references; and
- 7) the relationship of the crime to the capacity to care for a child(ren) or to be in contact with child(ren) cared for in a child care facility.

d) Assessment of Pending Criminal Charges

An individual against whom criminal charges are pending shall not be automatically denied licensure or employment because of the pending criminal charges. Instead, the following shall be considered:

- 1) the seriousness and nature of the charges which are pending including a determination of whether the charges are among those listed in Appendix A of this Part that serve as a bar to licensure or employment in a position that involves contact with children as part of the duties;
- 2) the circumstances surrounding the incident that led to the criminal charge;
- 3) the relationship of the charges to the ability to care for child(ren) or to be in contact with child(ren) in a child care facility;
- 4) whether the individual has ever been convicted of or charged with crimes of a similar nature; and
- 5) character references and other information, especially about the suitability of the individual to care for child(ren).

e) Notification of Hiring Decision

Child care facilities shall notify the Department in writing of their decision regarding the employment of a person with a criminal history. Such notice shall be postmarked within five calendar days after the date of the facility decision regarding the hiring, continued employment or reassignment of the individual in question to a position which does not involve contact with children. If the facility chooses to retain the employee, the duties to be performed by the employee must be clearly specified in the notice provided to the Department.

(Source: Emergency amendment added at 20 Ill. Reg. **3930** effective March 1, 1996, for a maximum of 150 days)

Section 385.50305-30 Child Abuse or Child Neglect

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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EMERGENCY

- a) Indicated Reports of Child Abuse/Neglect
- No individual may receive a license from the Department or be employed by a child-care facility licensed by the Department The Department makes the presumption that an individual who has been determined to be a perpetrator of child abuse or neglect of the allegations listed below, as defined in Appendix B, Child Abuse and Neglect Allegations of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect, is not suitable for work which involves contact with children. under Section 3--of--the--Abused--and--Neglected--Child--Reporting--Act--(Ill. Rev. Stat. 1985--Ch. 237--par. 2853)--and--who--has--been--identified--through--circuit court--(juvenile--criminal--civil)--proceedings--as--having--been--a perpetrator--of--child--abuse--or--neglect--based--on--any--one--of--the following:
- 1) Death
 - 2) Brain damage or skull fracture
 - 3) Subdural hematoma
 - 4) Internal injuries
 - 5) Wounds (gunshot, knife, or puncture)
 - 6) Torture
 - 7) Sexually transmitted diseases
 - 8) Sexual penetration
 - 9) Sexual molestation
 - 10) Sexual exploitation
 - 11) Failure to thrive
 - 12) Malnutrition
 - 13) Medical neglect of disabled infant

- 14) A single indicated report of child abuse or neglect that resulted in serious injury to the child, regardless of the allegations involved

- 15) More than one indicated report involving any of the following allegations, regardless of severity:

- A) Burns or scalding
- B) Poison or noxious substances
- C) Bone fractures
- D) Cuts, bruises, or welts
- E) Human bites
- F) Sprains or dislocations
- G) Tying or close confinement
- H) Substance misuse
- I) Mental injury
- J) Substantial risk of physical injury
- K) Inadequate supervision
- L) Abandonment or desertion
- M) Medical neglect
- N) Lock-out
- O) Inadequate food

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- P) Inadequate shelter
Q) Inadequate clothing
R) Environmental neglect
- b) Purposes of this Section--identification--through--circuit--court proceedings--includes:
- 1) Specific findings--by--a--court--that--a--child--s--abuser--neglect--or dependency--is--the--result--of--abuse--or--neglect--inflicted--by--a parent--guardian--legal--custodian--or--other--person--responsible--for the--child's--welfare--(as--defined--in--Section--3--of--the--Abused--and Neglected--Child--Reporting--Act--)
 - 2) criminal--convictions--and--civil--judgments--regardless--of--the--type of--sentence--imposed--or--amount--of--damages--recovered--for--offenses relating--to--child--abuse--or--child--neglect--resulting--from--jury trials--bench--(court)--trials--or--voluntary--guilty--pleas.
 - c) Prior--to--denying--an--individual--a--license--or--employment--pursuant--to subsection--(a)--the--Department--shall--notify--the--individual--that--he--or she--has--been--identified--as--a--perpetrator--of--child--abuse--or--neglect--as described--in--subsection--(a)--above--and--the--Department--or--child--care facility--as--applicable--shall--provide--the--individual--an--opportunity to--demonstrate--that--he--or--she--is--not--the--individual--identified--in--the court--finding--criminal--conviction--or--civil--judgment.
 - d) An--individual--requesting--an--opportunity--for--review--pursuant--to subsection--(c)--above--shall--submit--such--request--in--writing--to--the Department--or--the--child--care--facility--as--applicable--within--ten--(10) days--or--receipt--of--written--notice--of--the--Department's--intent--to--deny a license--or--the--Department's--or--child--care--facility's--intent--to--deny employment--the--individual--shall--be--notified--in--writing--of--the date--time--and--location--of--the--review--the--individual--may--be represented--by--counsel--of--his--or--her--own--choice--and--may--present--evidence and/or--witnesses--on--his--or--her--own--behalf--the--individual--shall--be required--to--produce--evidence--that--he--or--she--is--not--the--individual identified--in--the--court--finding--criminal--conviction--or--civil judgment--the--Department--has--relied--upon--in--making--the--identification. Evidence--to--be--considered--shall--be--limited--to:
 - 1) Fingerprints--processed--through--the--U.S.--Justice--Department--and the--Illinois--Department--of--State--Police--indicating--an--absence--of a--conviction--arising--from--child--abuse--or--neglect--identified--in subsection--(a)--above--or
 - 2) Sworn--statements--from--the--law--enforcement--agency--or--clerk--of--the court--upon--whom--the--Department--has--relied--for--the--identification that--the--subject--of--the--report--provided--to--the--Department--is--not the--individual--seeking--license--or--employment.

b) Assessment of Indicated Reports

e) Except--as--provided--in--subsection--(a)--above--a

- 1) A person determined to be the perpetrator of an indicated incident of abuse or neglect under Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3] shall not automatically be denied a license from the Department or be

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denied employment that involves contact with children in a child care facility licensed by the Department. Rather, the Department or the governing body, as applicable, shall provide the individual an opportunity to present evidence which demonstrates fitness for licensure or employment.

2) When the abuse or neglect includes allegations identified in subsection (a) of this Section, the Department presumes the prospective employee/license applicant is not suitable for work which involves contact with children. If the licensing entity (for license applicants) or the employer (for current, prospective and conditional employees) believes the individual is suitable for service which involves contact with children, the licensing entity or the employer may request a review and waiver of the presumption of unsuitability.

3) The Director of the Department or the Director's designee shall review any materials submitted on the individual's behalf and may waive the presumption that the individual is unsuitable for work which involves contact with children. If the Director or designee waives the presumption that the individual is unsuitable, the hiring or licensing decision shall be determined in accordance with the totality of the requirements of this Part and the applicable licensing standards. Such evidence shall include, but not be limited to:

A) the nature of the abuse or neglect with which the individual was identified, including whether the abuse or neglect resulted in serious injury or death to a child or children;

B) the circumstances surrounding the commission of the abuse or neglect, including the age of the perpetrator and the child(ren), that would demonstrate unlikelihood of repetition;

C) the period of time that has elapsed since the abuse or neglect occurred and whether prior incidents of child abuse or child neglect have been indicated against the individual;

D) whether the abuse or neglect involved a single or multiple child victims;

E) the relationship of the incident of child abuse or neglect to the individual's current or prospective job responsibilities within the child care facility;

F) whether the individual has been convicted of a criminal offense which might have bearing on the individual's ability to function in a child care facility as licensee or employee;

G) evidence of rehabilitation such as employment, education, participation in therapy since the indicated incident(s) of abuse or neglect; and

H) character references.

C) Notification of Hiring Decision

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Child care facilities shall notify the Department in writing of their decision regarding the employment of a person who has been indicated as a perpetrator of child abuse/neglect. Such notice shall be postmarked within five calendar days after the facility decision regarding hiring, continued employment or reassignment of the individual in question to a position which does not involve contact with children. If the facility chooses to retain the employee, the duties to be performed by the employee must be clearly specified in the notice provided to the Department.

f) An individual requesting an opportunity for review pursuant to subsection (e) above shall submit such request in writing to the Department or the child care facility, as applicable, within ten (10) days of receipt of written notice of the Department's intent to deny a license or the Department's or child care facility's intent to deny employment. The individual shall be notified, in writing, of the date, time and location of the review. The individual may be represented by counsel of his or her choice, and may present evidence and/or witnesses on his or her behalf.

g) In order for an individual to be considered fit for licensure or employment, the person conducting the review must conclude that when all the evidence presented pursuant to subsection (e) is considered, the individual is more fit for licensure or employment than not. The decision of a governing body regarding employment is finally subject to review under the personnel policies of the governing body. A decision of the Department regarding licensure is finally subject to review by a court of competent jurisdiction.

h) A written record shall be made of any reviews conducted pursuant to this Section, and such record shall contain copies of all documents relied upon in making a denial determination of fitness for licensure or employment.

(Source: Section 385.50 renewed **3930** from Section 385.30 and emergency amendment at 20 Ill. Reg. _____, effective March 1, 1996, for a maximum of 150 days)

Section 385.60385-40 Authorization for Background Checks Investigation EMERGENCY

a) Each operator of a child care facility as a condition of licensure for each member of the household in a family home 10 years of age or older and each employee and prospective employee of a child care facility as a condition of employment shall authorize the Department to conduct a background check consisting of a search of the Child Abuse and Neglect Tracking System (CANGS) maintained by the State General Register to determine whether the person has been indicated as a perpetrator of child abuse or child neglect.

a) Persons Required to Authorize Background Checks
All persons required to authorize background checks (as defined in

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the required background check investigation. The form authorizing such a background check on investigation shall be received by the Department of Children and Family Services within ten days after such employment or the beginning of volunteer service. Conditional employees shall not be left alone with children until the results of the background check have been received. forwarded to the Department immediately by the governing body or operator of the child care facility employing the individual. The Department shall complete the investigation required by this Part within ninety (90) days of receipt of the authorization.

(Source: Section 385.60 renumbered from Section 385.40 and emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days)

Section 385.70 385.50 Disposition of Background Checks Investigation
EMERGENCY

a) Notification of Findings

The Department shall notify the governing body (as explained below) or operator of the child care facility, in writing, of the results of the background checks investigation in accordance with this Section. When the subject of the background check investigation is the director, administrator or other chief executive officer of the facility, the Department shall notify the presiding officer of the governing body of the results of the check investigation, and the presiding officer shall take those actions required by this Part. In the case of a group home or a child care facility that operates in a family home, the Department shall notify the supervising agency for the facility of the results of the check.

b) Prior to notifying the governing body or operator of a child care facility that an employee or prospective employee is the perpetrator of an indicated incident of child abuse or neglect, the Department shall attempt to query by telephone or in person contact with the employee or prospective employee to verify whether the perpetrator of the indicated incident and the employee or prospective employee are the same person.

b) Child Care Facility Decision Regarding Employment

c) When the background investigation discloses that an employee or prospective employee was the indicated perpetrator of child abuse or neglect, the Department shall provide the governing body or operator of the facility with any abstract of the information contained in the State Central Register and any record of criminal history or pending criminal charges a copy of court records available to the Department if applicable. It shall be the responsibility of the governing body or operator of the facility to determine whether to hire or continue the employment of a conditional employee, to reassign the individual in question to a position that does not involve contact

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Section 385.20) must authorize such checks as a condition of employment and continuing employment, licensing and continuing licensing, or when required for a contract with the Department.

b) Contents of Authorization

b) The authorization required by this Section shall be on a form(s) form prescribed by the Department and shall include:

1) Identifying information consisting of name, address, Social Security number, date of birth, height, weight, hair and eye color, previous names and addresses;

2) a certification under penalty of perjury regarding any prior criminal convictions other than a minor traffic violation, as defined by this Part, and of any pending criminal charges;

3) a certification by the license applicant(s) under penalty of perjury that he or she is not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license [5 ILCS 100/10-65(c)];

and

4) authorization for the Department to release the results of the background check investigation to the governing body or employer or, in the case of a group home or a child care facility operating in a family home, to the supervising agency for the child care facility.

c) Employees Absent from Active Duty

For purposes of this Part only, employees who have been separated from any the child care facility licensed by the Department of Children and Family Services for six months or longer (for reasons other than vacation, sabbatical leave, sick leave or maternity leave) shall no longer be considered current employees. Upon their return to active duty, such individuals shall be required to again authorize a background check investigation pursuant to this Part Section.

d) License Inactive for Six Months or Longer

Persons who have been previously licensed, but who have not held a valid license for six months or longer (for reasons other than pending administrative appeals), shall be required to again authorize a background check pursuant to this Part before another license may be issued.

e) Multi-Function Agencies

e) Employee(s), conditional employees, and prospective employee(s) of a multi-function agency otherwise exempt from the requirements of this Part, who have contact with children as part of their present or prospective employment, but whose duties require that they be on the premises of a child care facility, shall authorize the background check investigation required by this Part.

f) Conditional Employment

f) An individual who has authorized the background check investigation required by this Part may be employed by a child care facility on a conditional provisional or probationary basis pending the outcome of

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Section 385.80 Department Review of Decisions to Deny License
EMERGENCY

- a) Availability of Review of Denial Decision
The Department shall conduct reviews, upon a written request, of its decision to deny licensure based upon the background checks conducted in accordance with the requirements of this Part unless the license applicant has the right to appeal the decision under 89 Ill. Adm. Code 338, Appeal of Foster Family Home License Denials by Relative Caregivers (for relative caregivers who applied for a foster family home) or 89 Ill. Adm. Code 383, Licensing Enforcement (for revocations, refusal to renew a license, and permit holders who are denied a license).

- b) Decision Review Process
An individual requesting an opportunity for review, pursuant to Subsection (a) of this Section shall submit such request, in writing, to the Central Office of Licensing, Department of Children and Family Services, 406 E. Monroe St., Station #60, Springfield, IL 62701 within ten days after the date of written notice of the denial of an application for license. The individual shall be notified, in writing, of the date, time and location of the review. The individual may be represented by counsel of his or her choice, and may present evidence and/or witnesses on his or her own behalf. The individual shall be required to produce evidence that he or she is not the individual identified in the background report or, if the issue is delinquency in the payment of child support, that the child support has been paid in full or that a payment schedule has been arranged with the Department of Public Aid (Title IV-D cases) or a court of jurisdiction (all other child support cases). Evidence to be considered shall be limited to:

- 1) When the review involves an indicated CANTS report, sworn statements from the administrator of the child protection division for the Department that the individual named in the report is not the individual in question; or
- 2) When the review involves a criminal history record, evidence shall be limited to sworn statements from the law enforcement agency or clerk of the court upon whom the Department has relied for the identification that the subject of the criminal history record provided to the Department is not the individual in question; or
- 3) When the review involves delinquent child support, sworn statements from the Department of Public Aid or the clerk of the court, as applicable, that child support has been paid in full or a payment schedule arranged.

- c) Final Administrative Decision
The person(s) conducting the review must conclude that, when all the evidence presented pursuant to this Part and the applicable licensing standards are considered, that there is clear and convincing evidence

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with children, provide the individual an opportunity for a review in accordance with the facility's personnel policies Section 385-30, and notify the Department of its employment decision within thirty-(30) days of receipt of the information from the Department.

- d) When the individual indicated as a perpetrator of child abuse or neglect is the applicant for a child care license or an adult member of the household of such applicant, the Department shall conduct a review in accordance with Section 385-30, and shall notify the applicant of whether the individual is eligible for a license on the basis of the background check within thirty-(30) days of its determination that the applicant or an adult member of the household is an indicated perpetrator of child abuse or neglect.

- c) Reinstatement of License or Return to Employment Involving Contact with Children

- e) A person denied licensure or employment or a person relieved of child-related duties pursuant to this Section shall be eligible for licensure, employment, or resumption of child-related duties, provided:

- 1) a Departmental investigation or court trial concludes with a finding that the person is not the perpetrator of child abuse or neglect or did not commit the crimes listed in the criminal history report; or
- 2) a finding indicating child abuse or neglect is expunged or removed as a result of an administrative or judicial review; or
- 3) a prior conviction of a crime is overturned upon appeal; or
- 4) pending charges or allegations have been dismissed; or
- 5) the Department or the governing body as applicable has reviewed the incident of abuse or neglect or the criminal history in accordance with Section 385-30 and approved licensure in accordance with the requirements of this Part; or
- 6) the employer has reviewed the incident of abuse or neglect or the criminal history and approved employment or continuing employment which involves contact with children in accordance with the requirements of this Part. The decision of the employer is final, subject to review under the personnel policies of its governing body. Such hiring decisions may not be appealed to the Department of Children and Family Services; or
- 7) when the license applicant(s) is denied a license because he or she is more than 30 days delinquent in child support, proof that the child support has been paid in full or that a payment schedule has been arranged with the Department of Public Aid (Title IV-D support cases) or the court of jurisdiction (all other child support cases).

(Source: Section 385.70 renumbered from Section 385.50 and emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days)

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maximum of 150 days)
**Section 385.100 385-70 Severability of This Part
EMERGENCY**

If any court of competent jurisdiction finds that any rule, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

(Source: Section 385.100 renumbered from Section 385.70 by emergency amendment at 20 Ill. Reg. **3930**, effective March 1, 1996, for a maximum of 150 days)

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that the individual is not the person named in the indicated report/criminal history record or that the individual is suitable for service which involves contact with children despite the results of the background check. If the review is addressing the issue of delinquent child support, the individual must submit proof that he or she has paid the delinquency or made arrangements for payment of delinquent child support. A decision of the Department Licensing authority is final, subject to review by a court of competent jurisdiction.

- d) Record of Decision Review
A written record shall be made of any review(s) conducted pursuant to this Section, and such record shall contain copies of all documents relied upon in making the determination of fitness or unfitness for licensure.

(Source: Emergency amendment added at 20 Ill. Reg. **3930**, effective March 1, 1996, for a maximum of 150 days)

**Section 385.90 385-60 Records To Be Maintained By the Child Care Facility
EMERGENCY**

- a) The governing body or operator of a child care facility shall maintain a copy of the authorization for background checks investigation required by Sections **Section 385.40** and **385.50** as part of the personnel records of the facility for a period of five 5 years from the date of the ~~authorization~~ of termination of the employee ~~whichever is later~~.
- b) The results of the Department's background check investigation and the record of any conclusions or recommendations resulting from the review of the findings of that check investigation by the governing body or operator of the child care facility shall be maintained for five 5 years in a file separate confidential file apart from other personnel records. Access to such records shall be limited to the following:
- 1) the subject of an individual record;
 - 2) the governing body or operator of the child care facility;
 - 3) Department licensing representatives;
 - 4) Department staff authorized, in writing, by the Director to conduct background checks ~~investigations~~ pursuant to this part;
 - 5) persons who are authorized, in writing, by the governing body or operator of the child care facility and whose duties are related to the background checks ~~investigation~~ or its findings; and
 - 6) Department representatives who have the Director of the Department's written authorization which specifies the statutory authority or administrative rule(s) under which the access is granted.

(Source: Section 385.90 renumbered **3930** from Section 385.60 and emergency amendment at 20 Ill. Reg. **3930**, effective March 1, 1996, for a

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385. APPENDIX A Criminal Convictions Preventing Licensure or Employment
EMERGENCY

If any person subject to background checks has been included in the Statewide Child Sex Offender Database or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 (720 ILCS 5) or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to receiving a license or permit to operate as a child care facility and from obtaining employment or continuing employment in a licensed child care facility that involves contact with children as part of the duties.

In addition to the list of crimes in this Appendix A, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Appendix A, Criminal Convictions Which Prevent Licensure, of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, which is a more inclusive list of crimes.

The offenses that serve as a bar to licensure or employment involving contact with children in any child care facilities subject to licensing include:

OFFENSES DIPECTED AGAINST THE PERSON

HOMICIDE

Murder
Solicitation of murder
Intentional homicide of an unborn child
Voluntary manslaughter of an unborn child
Involuntary manslaughter
Reckless homicide
Concealment of a homicidal death
Involuntary manslaughter of an unborn child
Reckless homicide of an unborn child
Drug induced homicide

KIDNAPPING AND RELATED OFFENSES

Kidnapping
Aggravated kidnapping
Aggravated unlawful restraint
Felony unlawful restraint
Forcible detention
Child abduction
Aiding and abetting child abduction

Harboring a runaway

SEX OFFENSES

Indecent solicitation of a child
Indecent solicitation of an adult
Public indecency
Sexual exploitation of a child
Sexual relations within families
Prostitution
Soliciting for a prostitute
Soliciting for a juvenile prostitute
Solicitation of a sexual act
Pandering
Keeping a place of prostitution
Keeping a place of juvenile prostitution
Patronizing a prostitute
Patronizing a juvenile prostitute
Pimping
Juvenile pimping
Exploitation of a child
Obscenity
Child pornography
Harmful material
Tie in sales of obscene publications to distributors

BODILY HARM

Heinous battery
Aggravated battery with a firearm
Aggravated battery of a child
Tampering with food, drugs, or cosmetics
Hate crime
Stalking
Aggravated stalking
Threatening public officials
Home invasion
Vehicular invasion
Criminal sexual assault
Aggravated criminal sexual assault
Predatory criminal sexual assault of a child
Criminal sexual abuse
Aggravated sexual abuse
Criminal transmission of HIV
Criminal neglect of an elderly or disabled person
Child abandonment
Endangering the life or health of a child
Ritual mutilation
Ritualized abuse of a child

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DRUG OFFENSESPossession of more than thirty grams of cannabisManufacture of more than 10 grams of cannabisCannabis traffickingDelivery of cannabis on school groundsUnauthorized production of more than five cannabis sativa plantsCalculated criminal cannabis conspiracyUnauthorized manufacture or delivery of controlled substancesControlled substance traffickingManufacture, distribution, advertisement of look-alike substancesCalculated criminal drug conspiracyPermitting unlawful use of a buildingDelivery of controlled, counterfeit or look-alike substances to persons under age 18, or at truck stops, rest stops, safety rest areas, or on school propertyUsing, engaging, or employing persons under 18 to delivercontrolled, counterfeit, or look-alike substancesDelivery of controlled substancesSale or delivery of drug paraphernaliaFelony possession, sale or exchange of instruments adapted for use of controlled substances or cannabis by subcutaneous injection

(Source: Emergency amendment added at 20 Ill. Reg. **3930**, effective March 1, 1996, for a maximum of 150 days)

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1) Heading of the Part: Licensing Standards for Foster Family Homes2) Code Citation: 89 Ill. Adm. Code 4023) Section Numbers: Emergency Action:
402.Appendix A Amend4) Statutory Authority: 225 ILCS 105) Effective Date of Amendments: February 16, 19966) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable7) Date Filed in Agency's Principal Office: February 16, 19968) Reason for Emergency: The list of criminal convictions which prevent licensure as a foster family home has been expanded to include additional sexually related crimes. Because foster home placements are made daily by the Department and private child welfare agencies who contract with the Department, emergency rulemaking is necessary to protect children from being placed in a home in which a convicted sexual offender is residing.9) A Complete Description of the Subjects and Issues Involved: The Department is amending Appendix A, which contains the list of crimes which prohibit placement in a foster family home, to include harboring a runaway, indecent solicitation of an adult and soliciting for a sexual act, which were inadvertently omitted from the list, and predatory sexual assault of a child, which was added by Public Act 89-428.10) Are there any proposed amendments to this Part pending? No11) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].12) Information and questions regarding these rules shall be directed to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #222
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715

The full text of the emergency rules begins on the next page:

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TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 402

LICENSING STANDARDS FOR FOSTER FAMILY HOMES

Section

- 402.1 Purpose
- 402.2 Definitions
- 402.3 Effective Date of Standards (Repealed)
- 402.4 Application for License
- 402.5 Application for Renewal of License
- 402.6 Provisions Pertaining to Permits
- 402.7 Provisions Pertaining to the License
- 402.8 General Requirements for the Foster Home
- 402.9 Requirements for Sleeping Arrangements
- 402.10 Nutrition and Meals
- 402.11 Business and Employment of Foster Family
- 402.12 Qualifications of Foster Parents
- 402.13 Background Inquiry
- 402.14 Health of Foster Family
- 402.15 Number and Ages of Children Served
- 402.16 Meeting Basic Needs of Children
- 402.17 Health Care of Children
- 402.18 Religion
- 402.19 Recreation and Leisure Time
- 402.20 Education
- 402.21 Discipline of Children
- 402.22 Emergency Care of Children
- 402.23 Release of Children
- 402.24 Confidentiality of Information
- 402.25 Required Written Consents
- 402.26 Records to be Maintained
- 402.27 Licensing Supervision
- 402.28 Adoptive Homes
- 402.29 Severability of This Part

APPENDIX A Criminal Convictions Which Prevent Licensure

EMERGENCY

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 9548, effective October 1, 1981; emergency amendment at 6 Ill. Reg. 15580, effective December 15, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 3439, effective April 4, 1983; amended at 7 Ill. Reg. 13858, effective November 1, 1983; amended at 8 Ill. Reg. 23197, effective December 3, 1984; amended at 11 Ill. Reg. 4292, effective

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March 1, 1987; emergency amendment at 16 Ill. Reg. 11879, effective July 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 267, effective December 21, 1992; emergency amendment at 18 Ill. Reg. 8481, effective May 20, 1994, for a maximum of 150 days; emergency expired on October 17, 1994; amended at 19 Ill. Reg. 1801, effective February 1, 1995; amended at 19 Ill. Reg. 9463, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10743, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; amended at 20 Ill. Reg. 1582, effective January 10, 1996; emergency amendment at 20 Ill. Reg. **3954**, effective February 16, 1996, for a maximum of 150 days.

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Section 402.APPENDIX A Criminal Convictions Which Prevent Licensure
EMERGENCY

If the foster parent applicant(s) or any adult member of the household has been convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 [720 ILCS 5], the Cannabis Control Act [720 ILCS 550], and the Illinois Controlled Substances Act [720 ILCS 570], or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to receiving a foster home license or permit.

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

Murder
Solicitation of murder
Solicitation of murder for hire
Intentional homicide of an unborn child
Voluntary manslaughter of an unborn child
Involuntary manslaughter
Reckless homicide
Concealment of a homicidal death
Involuntary manslaughter of an unborn child
Reckless homicide of an unborn child
Drug induced homicide

KIDNAPPING AND RELATED OFFENSES

Kidnapping
Aggravated kidnapping
Unlawful restraint
Aggravated unlawful restraint
Forcible detention
Child abduction
Aiding and abetting child abduction
Harboring a runaway

SEX OFFENSES

Indecent solicitation of a child
Indecent solicitation of an adult
Public indecency
Sexual exploitation of a child
Sexual relations within families
Prostitution
Soliciting for a prostitute

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Soliciting for a juvenile prostitute
Solicitation of a sexual act

Pandering
Keeping a place of prostitution
Keeping a place of juvenile prostitution
Patronizing a prostitute
Patronizing a juvenile prostitute
Pimping
Juvenile pimping
Exploitation of a child
Obscenity
Child pornography
Harmful material
Tie in sales of obscene publication to distributors

BODILY HARM

Felony aggravated assault
Vehicular endangerment
Felony domestic battery
Aggravated battery
Heinous battery
Aggravated battery with a firearm
Aggravated battery of a child
retarded person
Aggravated battery of an unborn child
Tampering with food, drugs, or cosmetics
Aggravated battery of a senior citizen
Drug induced infliction of great bodily harm
Intimidation
Compelling organization membership of persons
Hate crime
Stalking
Aggravated stalking
Threatening public officials
Home invasion
Vehicular invasion
Criminal sexual assault
Aggravated criminal sexual assault
predatory criminal sexual assault of a child
Criminal sexual abuse
Aggravated sexual abuse
Criminal transmission of HIV
Abuse and gross neglect of a long term care facility resident
Criminal neglect of an elderly or disabled person
Child abandonment
Endangering the life or health of a child
Felony violation of an order of protection

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Ritual mutilation
Ritualized abuse of a child

OFFENSES DIRECTED AGAINST PROPERTY

Felony theft
Robbery
Armed robbery
Aggravated robbery
Vehicular hijacking
Aggravated vehicular hijacking
Burglary
Possession of burglary tools
Residential burglary
Criminal fortification of a residence or building
Arson
Aggravated arson
Possession of explosives or explosive incendiary devices

OFFENSES AFFECTING PUBLIC HEALTH, SAFETY AND DECENCY

Felony unlawful use of weapons
Aggravated discharge of a firearm
Reckless discharge of a firearm
Unlawful use of metal piercing bullets
Unlawful sale or delivery of firearms on the premises of any school
Disarming a police officer
Obstructing justice
Concealing or aiding a fugitive
Armed violence
Felony contributing to the criminal delinquency of a juvenile

DRUG OFFENSES

Possession of more than thirty grams of cannabis
Manufacture of more than 10 grams of cannabis
Cannabis trafficking
Delivery of cannabis on school grounds
Unauthorized production of more than five cannabis sativa plants
Calculated criminal cannabis conspiracy
Unauthorized manufacture or delivery of controlled substances
Controlled substance trafficking
Manufacture, distribution, advertisement of look-alike substances
Calculated criminal drug conspiracy
Permitting unlawful use of a building
Delivery of controlled, counterfeit or look-alike substances to persons under age 18, or at truck stops, rest stops, safety rest

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areas, or on school property
Using, engaging, or employing persons under 18 to deliver controlled, counterfeit or look-alike substances
Delivery of controlled substances
Sale or delivery of drug paraphernalia
Felony possession, sale or exchange of instruments adapted for use of controlled substance or cannabis by subcutaneous injection

(Source: Emergency amendment at 20 Ill. Reg. **3954**, effective February 16, 1996, for a maximum of 150 days)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Placement and Visitation Services
- 2) Code Citation: 89 Ill. Adm. Code 301
- 3) Section Numbers: Emergency Action:
301.Appendix A Amend
- 4) Statutory Authority: 20 ILCS 505
- 5) Effective Date of Amendments: February 16, 1996
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable
- 7) Date Filed in Agency's Principal Office: February 16, 1996
- 8) Reason for Emergency: The list of criminal convictions which prevent placement of children with relatives has been expanded to include additional sexually related crimes. Since the Department must, on a nearly daily basis, make emergency placements with relatives, the safety of children who are placed in the homes of relatives would be in danger unless these amendments were adopted on an emergency basis.
- 9) A Complete Description of the Subjects and Issues Involved: These amendments add the following crimes to the list of criminal convictions which prevent placement of children with relatives found in Appendix A: indecent solicitation of an adult and solicitation of a sexual act, which were inadvertently left off the list, and predatory criminal sexual assault of a child, which was added to the Child Care Act by Public Act 89-428, the Child Sex Offender Community Notification Law.
- 10) Are there any proposed amendments to this Part pending? Yes

Section Numbers	Proposed Action	Illinois Register Citation
301.20	Amend	July 21, 1995 (19 Ill. Reg. 10349)
301.60	Amend	November 3, 1995 (19 Ill. Reg. 15116)
301.70	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.200	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.210	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.220	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.230	New Section	July 21, 1995 (19 Ill. Reg. 10349)
301.240	New Section	July 21, 1995 (19 Ill. Reg. 10349)

- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates

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NOTICE OF EMERGENCY AMENDMENTS

Act [30 ILCS 805/3(b)].

- 12) Information and questions regarding these rules shall be directed to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #222
Springfield, Illinois 62701-1498

Telephone: (217) 524-1983
TTY (217) 524-3715

The full text of the emergency rules begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 301
 PLACEMENT AND VISITATION SERVICES

Section

- 301.1 Purpose (Renumbered)
 301.2 Definition (Repealed)
 301.3 Foster Care Placement Goal (Renumbered)
 301.4 Plans to Achieve This Goal (Renumbered)

SUBPART A: PLACEMENT SERVICES

Section

- 301.10 Purpose
 301.20 Definitions
 301.30 Introduction
 301.40 Legal Authority to Place
 301.50 Emergency Placement
 301.60 Placement Selection Criteria
 301.80 Relative Home Placement
 301.90 Foster Family Home Care
 301.100 Residential Care
 301.110 Care in a Medical/Psychiatric Facility
 301.120 Sharing Appropriate Information with the Caregiver
 301.130 Medical Examinations for Children in Placement
 301.140 Education of Children While in Placement

SUBPART C: FOSTER CARE PLACEMENT GOAL

Section

- 301.310 Purpose
 301.320 Foster Care Placement Goal
 310.330 Plans to Achieve This Goal
 APPENDIX A Criminal Convictions which Prevent Placement of Children
 with Relatives
 EMERGENCY

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305/1-103]; the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 7 Ill. Reg. 881, effective January 12, 1983; amended at 9 Ill. Reg. 9904, effective July 1, 1985; amended at 19 Ill. Reg.

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9438, effective July 1, 1995; emergency amendments at 20 Ill. Reg.
~~3961~~ effective February 16, 1996, for a maximum of 150 days.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Section 301.APPENDIX A Criminal Convictions which Prevent Placement of Children with Relatives
EMERGENCY

a) Children for whom the Department of Children and Family Services is legally responsible shall not be placed with a relative, as defined in this Part, or allowed to remain in the home of a relative if the relative caregiver or any adult member of the household has been convicted of committing any of the following crimes, except as allowed via a waiver process below.

1) Homicide

- A† Murder*
- B† Solicitation of murder*
- E† Solicitation of murder for hire*
- B† Intentional homicide of an unborn child*
- B† Voluntary manslaughter of an unborn child*
- F† Involuntary manslaughter*
- G† Reckless homicide*
- H† Concealment of a homicidal death*
- I† Involuntary manslaughter of an unborn child*
- J† Reckless homicide of an unborn child*
- K† Drug induced homicide*

2) Sex Offenses

- A† Child pornography*
- B† Exploitation of a child*
- E† Sexual exploitation of a child*
- B† Obscenity
- B† Harmful materials
- F† Tie in sales of obscene publications to distributors
- G† Indecent solicitation of a child*
- I† Indecent solicitation of an adult
- H† Public indecency
- I† Sexual relations within families*
- G† Prostitution
- K† Soliciting for a prostitute
- B† Soliciting for a juvenile prostitute*
- I† Solicitation of a sexual act
- M† Pandering
- N† Keeping a place of prostitution*
- O† Keeping a place of juvenile prostitution*
- F† Patronizing a prostitute
- O† Patronizing a juvenile prostitute*
- R† Pimping
- S† Juvenile pimping*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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3) Kidnapping and Related Offenses

- A† Kidnapping
- B† Aggravated unlawful restraint
- E† Forcible detention
- B† Aiding and abetting child abduction*
- B† Aggravated kidnapping
- F† Child abduction*

4) Bodily Harm

- A† Aggravated battery of a child*
- B† Criminal sexual assault*
- E† Aggravated criminal sexual assault*
- I† Predatory criminal sexual assault of a child*
- B† Criminal sexual abuse*
- B† Aggravated sexual abuse*
- F† Heinous battery*
- G† Aggravated battery with a firearm
- H† Tampering with food, drugs, or cosmetics
- I† Drug-induced infliction of great bodily harm
- J† Aggravated stalking
- K† Home invasion
- B† Vehicular invasion
- M† Criminal transmission of HIV
- N† Criminal neglect of an elderly or disabled person
- O† Child abandonment*
- P† Endangering the life or health of a child*
- O† Ritual mutilation
- R† Ritualized abuse of a child*

5) An offense in any other state the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

b) If the relative caregiver or any adult member of the household has been convicted of one of the crimes in subsections (a)(1) or (5) above marked by an asterisk, any request for a waiver must be submitted in writing to the Director of the Department for his or her personal approval. The supervising agency shall submit the following information along with the request for waiver of the criminal conviction(s).

- 1) the age of the individual at the time of the conviction(s);
- 2) the length of time that has elapsed since the last conviction(s);
- 3) the relationship of the crime and the capacity to care for related children;
- 4) evidence of rehabilitation; and
- 5) opinions of community members concerning the individual in question.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- c) If the relative caregiver of any adult member of the household has been convicted of one of the crimes identified in subsections (a)(1) through (5) above not marked by an asterisk, related children for whom DCFS is legally responsible shall not be placed in or continue to remain in the relative caregiver's household unless a waiver of this prior criminal history has been granted in accordance with the requirements of this subsection. The Director of the Department shall designate specific Department employees who have the authority to grant such waivers on a 24 hour per day basis. When the supervising agency believes that there have been extraordinary circumstances surrounding the criminal history or the convicted person(s) has been successfully rehabilitated and placement in the relative's household is in the best interests of the children, the supervising agency may request a waiver of this prior criminal history by asking the Department to consider the factors in (b) above. Such requests may be made orally, but must be confirmed in writing. The Department's decision with regard to the request for a waiver shall be documented in writing and included in the child's case record.

(Source: Emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996 for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Drinking Water Systems Code
- 2) Code Citation: 77 Ill. Adm. Code 900
- 3) Section Numbers: Emergency Action:
900.15 Amendment
900.20 Amendment
- 4) Statutory Authority: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act (415 ILCS 55/9).
- 5) Effective Date of Emergency Rules: February 16, 1996
- 6) If this Emergency Rule is to Expire Before the End of the 150-Day Period, Please Specify the Date on Which it is to Expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: February 16, 1996
- 8) Reason for Emergency: The Department, in a previous rulemaking at the request of the U.S. Environmental Protection Agency, repealed several Sections from Part 900, specifying water quality standards for non-community public water supplies. The Department referenced in place of these Sections the equivalent rules of the Pollution Control Board. The Pollution Control Board's rules were incorrectly referenced in the above-mentioned rulemaking and were not specifically applied to non-community water systems, resulting in lack of rules for the Department to rely on in its enforcement of water quality standards and confusion to owners and operators of non-community water systems. This emergency rulemaking references the appropriate rules of the Pollution Control Board, applies the referenced rules to non-community water systems and deletes a reference to rules that have been repealed by the Board.

- 9) A Complete Description of the Subjects and Issues Involved: This rulemaking specifies that the rules of the Pollution Control Board concerning operation and recordkeeping for public water supplies and primary drinking water standards apply to non-community water systems regulated under Part 900. The rulemaking also corrects references to the rules of the Pollution Control Board on operation and recordkeeping for public water supplies and deletes a reference to the Board's repealed rules on sampling and monitoring for public water supplies.

- 10) Are There Any Proposed Amendments Pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules will not require any new expenditures by units of local government.
- 12) Information and Questions Regarding these Emergency Amendments shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

directed to:

Gail M. DeVito
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER I: WATER AND SEWAGE

PART 900
DRINKING WATER SYSTEMS CODE

Section	Definitions
900.10	Incorporated and Referenced Materials
900.15	
EMERGENCY	
900.20	General Requirements
EMERGENCY	
900.30	Special Requirements
900.40	Water System Design
900.50	Inorganic Chemicals (Repealed)
900.60	Turbidity (Repealed)
900.65	Organic Chemicals (Repealed)
900.70	Microbiological (Repealed)
900.80	Public Notification (Repealed)
900.90	Record Maintenance and Reporting (Repealed)
900.100	Variances and Exemptions (Repealed)
TABLE A	Sources of Pollution in Location to Wells and/or Finished Water Storage Facilities
TABLE B	Design Capacity for a Non/Community Public Water System
TABLE C	Pressure Factors
TABLE D	Coliform Sampling Frequency According to Population Served (Repealed)
TABLE E	Lead and Copper Sampling Frequency-Requirements for First Year of Sampling (Repealed)
TABLE F	Lead and Copper Sampling Frequency-Requirements After First Year of Sampling (Repealed)
TABLE G	Water Quality Sampling Requirements (Repealed)
TABLE H	Water Quality Sampling Requirements-Reduced Sampling (Repealed)
TABLE I	Table of Factors to be Used in Saturation Index Calculations (Repealed)
	EXHIBIT A Values of A Based Upon Total Solids (Repealed)
	EXHIBIT B Values of B Based Upon Water Temperature (Repealed)
	EXHIBIT C Values of C Based Upon Calcium Hardness Expressed as CaCO ₃ (Repealed)
	EXHIBIT D Values of D Based Upon Alkalinity Expressed as CaCO ₃ (Repealed)

AUTHORITY: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9].

SOURCE: Adopted at 6 Ill. Reg. 2215, effective February 3, 1982; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 3301, effective March 2, 1984; amended at 9 Ill. Reg. 9139, effective June 3, 1985; amended at 13

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NOTICE OF EMERGENCY AMENDMENTS

Ill. Reg. 12578, effective August 1, 1989; amended at 14 Ill. Reg. 14844, effective September 1, 1990; amended at 17 Ill. Reg. 4388, effective March 23, 1993; amended at 19 Ill. Reg. 7217, effective May 31, 1995; emergency amendment at 20 Ill. Reg. **3968**, effective February 16, 1996, for a maximum of 150 days.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

Section 900.15 Incorporated and Referenced Materials**EMERGENCY**

- a) The following State regulations are referenced in **various Sections--of** this Part:

1) Department of Public Health rules

A) Certification and Operation of Environmental Laboratories (35 Ill. Adm. Code 183.105) ~~Illinois--Department--of--Public Health;~~

B) Illinois Water Well Construction Code (77 Ill. Adm. Code 920) ~~Illinois--Department--of--Public-Health;~~

C) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925) ~~Illinois--Department--of--Public-Health;~~

D) Surface Source Water Treatment Code (77 Ill. Adm. Code 930) ~~Illinois--Department--of--Public-Health;~~

E) Illinois Plumbing Code (77 Ill. Adm. Code 890) ~~Illinois Department--of--Public-Health;~~

26) Illinois Pollution Control Board Rules--

35--Ill--Adm--Code--605

A) Primary Drinking Water Standards (35 Ill. Adm. Code 611)

B) Operation and Recordkeeping (35 Ill. Adm. Code 607) ~~104~~

For purposes of compliance with this Part, all references to the "Agency" and "Board" shall be replaced by the "Illinois Department of Public Health" (Department) for regulation of non-community water supplies (NCWS).

- b) The following standard is incorporated in this Part:

"Recommended Standards for Water Works" - Great Lakes Upper Mississippi River Board of State Sanitary Engineers - Ten States' Standards - (1982 Edition) and published by:

Health Education Service
P.O. Box 7283
Albany, New York 12244

- c) All incorporations by reference of the standards of nationally recognized organizations refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified.

- d) All materials incorporated by reference are available for inspection and copying at the Department's Central Office, Division of Environmental Health, 525 West Jefferson - Third Floor, Springfield,

DEPARTMENT OF PUBLIC HEALTH

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Illinois 62761.

(Source: Emergency amendment at 20 Ill. Reg. **3968**, effective February 16, 1996, for a maximum of 150 days)

Section 900.20 General Requirements**EMERGENCY**

- a) Coverage. This Part shall apply to all non-community public water systems.
- b) Exception. This Part shall not apply to a public water system which meets all of the following conditions:

1) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities).

2) Obtains all of its water from, but is not owned or operated by a public water system to which such regulations apply.

3) Does not sell water to any person.

4) Is not a carrier which conveys passengers in interstate commerce.

c) Consecutive Systems. When a public water system supplies water to one or more other public water systems, the Department shall modify the monitoring requirements if one sampling point can be shown to be representative of the water supply and the supply can be shown to have a contamination free sampling history to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes. Any modification in monitoring shall be approved in writing by the Department.

d) Permit to Construct. A permit to construct a non-community public water system must be obtained from the Department prior to construction. Where a water well is to be constructed, altered or extended, a permit fee, which is established in Section 920.130 of the Illinois Water Well Construction Code, shall be required for the water well.

e) Permit to Alter or Extend. A permit for any major alteration of, or extension to, a non-community public water system must be obtained from the Department prior to construction.

f) Plans. All applications for a permit to construct, alter or extend a non-community public water system must be accompanied by plans and specifications. The plans and specifications must indicate all sources of contamination, the layout and design of the system and all associated equipment which will indicate compliance with this Part as stated in Section 900.40.

g) Major Alterations or Extensions. Major alterations or extensions shall include, but not be limited to, the following:

1) Change in source of water supply.

2) Construction of additional sources of water supply.

3) Provision of any new treatment to the system.

4) Changes in system capacity.

5) Increase in the water well depth.

DEPARTMENT OF PUBLIC HEALTH

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- h) Notification of Completion. Upon completion of any construction for which a permit has been issued, the owner shall notify the Department. System Disinfection. All components of new non-community public water system construction, alteration, or expansion shall be disinfected with a strong chlorine solution; and satisfactory bacteriological sample results, in compliance with this Part ~~Section 900-70(a)~~, shall be obtained prior to placing the components into service.
- j) Certified Laboratory. All samples requiring laboratory analysis shall be analyzed only by a laboratory which has been certified for the analysis in question, except that turbidity analyses may be conducted by anyone approved by the Department. The certification shall be made by the Department or the Illinois Environmental Protection Agency in accordance with Certification and Operation of Environmental Laboratories (35 Ill. Adm. Code 183). The results from any analysis not conducted in accordance with the above shall not be considered valid for purposes of this Part.
- k) The following State regulations shall apply to all non-community public water supplies:
- 1) 35 Ill. Adm. Code 607, Operation and Recordkeeping.
 - 2) 35 Ill. Adm. Code 611, Primary Drinking Water Standards.

(Source: Emergency amendment at 20 Ill. Reg. **3968**, effective February 16, 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Local Health Protection Grant Rules
- 2) Code Citation: 77 Ill. Adm. Code 615
- 3) Section Numbers: Emergency Action:
615.210 Amendment
- 4) Statutory Authority: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5/Div. 5-25]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55].
- 5) Effective Date of Emergency Rules: February 16, 1996
- 6) If this Emergency Rule is to Expire Before the End of the 150-Day Period, Please Specify the Date on Which it is to Expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: February 16, 1996

8) Reason for Emergency: In January of 1995, as a result of discussions with the Illinois Association of Public Health Administrators (IAPHA), the Department proposed amendments to these rules to revise the methodology by which certain grant funds are allocated to participating local health departments. During the course of the rulemaking, JCAR objected to the proposed amendments on the basis that the rulemaking establishes a new allocation policy that will have an adverse economic impact on those, usually rural, local health departments within jurisdictions having a per capita income and/or per capita assessed valuation below the statewide average.

Following the JCAR objection, the IAPHA and Department staff met to address the concerns over this allocation methodology. After discussion and debate, the full IAPHA membership passed a resolution asking the Department to revise the allocation methodology. In response to this request the Department agreed to revise the rules to incorporate the recommended changes. In view of the issues raised during the course of the initial rulemaking, the Department and IAPHA leadership additionally agreed to revisit the methodology contained in the initial rulemaking and the Department proposed to convene a study committee to examine the formula issue, alternative allocation criteria, and the impacts of formula changes on future funding.

This emergency rulemaking will immediately implement the changes in the allocation methodology recommended by IAPHA and will serve as the Department's basis for the distribution of grant funds. At the same time, the accompanying proposed amendments will provide an opportunity for potential recommendations resulting from the study group's findings to be included in the rules. This is an important point considering that the

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NOTICE OF EMERGENCY AMENDMENTS

Department wishes to make every effort to facilitate the IAPHA's participation in resolution of formula issues, and considering that the revisions agreed upon in the previous rulemaking were made late in the rulemaking process.

9) A Complete Description of the Subjects and Issues Involved: The rulemaking will:

a. Increase the minimum annual local health protection grant award to local health departments (LHD's) from \$22,500 to \$23,250, effective immediately and to \$26,000, effective July 1, 1996.

b. Allocate income (40%) and assessed valuation (10%) portions of the formula to all LHD's -- based upon each jurisdiction's per capita income and per capita assessed valuation relative to the maximum LHD's income and assessed valuations, respectively. This provision will be in effect until July 1, 1996, at which time this component will be eliminated. On July 1, 1996 the allocation would revert back to the longstanding practice of allocating funds based on the per capita income/assessed valuation criteria only to LHD's with less than the statewide average per capita income/assessed valuation, based upon a comparison of each jurisdiction's per capita income/assessed valuation to the statewide averages.

c. For multi-county LHD's, ensure that each receives no less than it would as an individual county health department.

d. Allow the Department to establish a maximum grant award.

e. Allow the Department to establish a maximum allowable annual % change (either increase or decrease) in the total grant award for participating local health departments. Any decision to impose such limits may not be made by the Department without granting the Illinois Association of Public Health Administrators advance notice and an opportunity for comment.

10) Are There Any Proposed Amendments Pending on this Part? No

11) Statement of Statewide Policy Objectives: These rules will not require any new expenditures by units of local government.

12) Information and Questions Regarding these Emergency Amendments shall be directed to:

Gail M. DeVito
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER h: LOCAL HEALTH DEPARTMENTS

PART 615

LOCAL HEALTH PROTECTION GRANT RULES

SUBPART A: GENERAL

Section

615.100 Definitions

615.110 Incorporated Materials

SUBPART B: ADMINISTRATION OF LOCAL HEALTH PROTECTION GRANTS

Section

615.200 Eligibility

615.210 Award and Use of Grant Funds

EMERGENCY

615.220 Review and Consultation; Plan of Correction

615.230 Waiver of Requirements

SUBPART C: PROGRAM STANDARDS

Section

615.300 Infectious Diseases

615.310 Food Protection

615.320 Potable Water Supply

615.330 Private Sewage Disposal

615.340 Common Requirements

SUBPART D: DUE PROCESS

Section

615.400 Denial, Suspension or Revocation of Grant Application or Grant Agreement

615.410 Procedures for Hearings

APPENDIX A Recommended Policies and Procedures for Immunization Clinics

AUTHORITY: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55].

SOURCE: Filed October 20, 1977; Part repealed, new Part adopted at 5 Ill. Reg. 1415, effective July 1, 1981; codified at 8 Ill. Reg. 16335; amended at 14 Ill. Reg. 805, effective January 1, 1990; Part repealed, new Part adopted by

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emergency rules at 17 Ill. Reg. 13002, effective July 21, 1993, for a maximum of 150 days; emergency expired on December 18, 1993; Part repealed, new Part adopted at 18 Ill. Reg. 4320, effective March 1, 1994; emergency amendment at 20 Ill. Reg. 3974, effective February 16, 1996, for a maximum of 150 days.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUBPART B: ADMINISTRATION OF LOCAL HEALTH PROTECTION GRANTS

Section 615.210 Award and Use of Grant Funds

- a) The Department shall award Local Health Protection Grant funds using a methodology developed in cooperation with the Illinois Association of Public Health Administrators and which is based upon the following criteria: population; per capita income; and per capita assessed valuation.

1) Minimum and Maximum Grant Awards.

- A) Subject to the availability of funds, the minimum grant award to any participating local health department shall be \$23,250 \$22,500 annually; the minimum annual grant award to any participant multi-county local health department shall be \$23,250 times the number of counties in the multi-county local health department. Effective July 1, 1996, subject to the availability of funds, the minimum grant award to any participating local health department shall be \$26,000 annually; the minimum annual grant award to any participating multi-county local health department shall be \$26,000 times the number of counties in the multi-county local health department. If grant funds increase in subsequent fiscal years, the Department may raise the minimum annual grant awards in any subsequent year by the same percentage as the total available grant funds increase.
- B) If the methodology will result in a local health department receiving a grant award that will unduly adversely affect the funding available to other local health departments, then the Department may establish a maximum grant award for that year. The maximum award shall be based on the Department--may--also-establish-maximum-annual-grant-awards dependent-upon the total annual Local Health Protection Grant appropriation level, the three allocation criteria, and/or the availability of other State or federal funds for performing the required programs described in Subpart C of Program-Standards-in this Part.

- 2) Application of the Criteria. After setting aside any amounts for minimum and/or maximum grant awards:

- A) Fifty percent (50%) of the remaining annual Local Health

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Protection Grant funds shall be allocated based upon the population of the local health departments' jurisdictions.

- B) Forty percent (40%) of the remaining annual grant funds shall be allocated based upon the per capita incomes of the local health departments' jurisdictions, using the following multiplier:

Prior to July 1, 1996:
$$\frac{[x + y]z}{a}$$

After July 1, 1996:
$$\frac{[y]z}{a}$$

WHERE:

x = Difference between the jurisdiction's per capita income and the per capita income of the jurisdiction of the participating local health department with the highest per capita income

y = For those local health departments serving jurisdictions with a per capita income below the statewide average per capita income, the difference between the jurisdiction's per capita income and the statewide average per capita income

z = Population of the local health department's jurisdiction

a = Combined above amounts (either $[x + y]z$, prior to July 1, 1996; or $[y]z$, after July 1, 1996) for all participating local health departments.

The resulting multiplier is then applied to the amount represented by 40% of the remaining grant funds. Those local health departments serving jurisdictions with less than the statewide average per capita income will receive an allocation for this criterion which is directly proportional to the difference between the statewide average per capita income and their jurisdiction's per capita income level.

- C) Ten percent (10%) of the remaining annual grant funds shall be allocated based upon the per capita assessed valuations of local health departments' jurisdictions, using the following multiplier:

Prior to July 1, 1996:
$$[x + y]z$$

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a

After July 1, 1996:
$$\frac{[y]z}{a}$$

WHERE:

x = Difference between the jurisdiction's per capita assessed valuation and the per capita assessed valuation of the jurisdiction of the participating local health department with the highest per capita assessed valuation

y = For those local health departments serving jurisdictions with a per capita assessed valuation below the statewide average per capita assessed valuation, the difference between the jurisdiction's per capita assessed valuation and the statewide average per capita assessed valuation

z = Population of the local health department's jurisdiction

a = Combined above amounts (either $[x + y]z$, prior to July 1, 1996; or $[y]z$, after July 1, 1996) for all participating local health departments.

The resulting multiplier is then applied to the amount represented by 10% of the remaining grant funds. Those local health departments serving jurisdictions with less than the statewide average per capita assessed valuation will receive an allocation for this criterion which is directly proportional to the difference between the statewide average per capita assessed valuation and their jurisdiction's per capita assessed valuation level.

3) Multi-County Local Health Departments. The annual grant award for each participating multi-county local health department shall equal or exceed the sum of the annual grant awards that its individual counties could receive as county health departments.

4) Maximum Annual Change. The Department may impose a maximum allowable annual percentage change (% increase or % decrease) in the total grant award for participating local health departments. Such limits shall not be imposed from one year to the next without granting the Illinois Association of Public Health Administrators advance notice and an opportunity to comment. The Department's decision to impose the limitation shall be based on

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the number of participating local health departments, the unmet financial needs of participating local health departments, the adequacy of other funding available to local health departments, the availability of Local Health Protection Grant funds for that year, inflation rate, and other issues affecting the fair distribution of grant funds.

b) Prior to the award of grant funds, the Department and the local health department shall execute a grant agreement wherein the local health department, at a minimum, agrees to:

- 1) fulfill the requirements of this Part; and
- 2) provide program statistical information to the Department. The requested information will be developed in cooperation with the Illinois Association of Public Health Administrators.

c) Local Health Protection Grants may be used by the local health department for any health protection program or service including, but not limited to, Infectious Diseases, Food Protection, Potable Water Supply, and Private Sewage Disposal. The grants are intended to supplement other federal, State and local funds available to support local health protection programs, including the four programs that must be assured for participation. Provided the four programs are assured, the local health department may use the grant funds for any health protection program, activity or service or for shared management or administrative support costs.

(Source: Emergency amendment at 20 Ill. Reg. **3974**, effective February 16, 1996, for a maximum of 150 days)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE
ON ADMINISTRATIVE RULES

- 1) Heading of the Part: State Administration of the Federal Community Services Block Grant Program

2) Code Citation: 47 Ill. Adm. Code 120

3) Section Numbers: 120.50
Action: Refusal

4) Date of Proposal Published in the Illinois Register: September 22, 1995;
19 Ill. Reg. 13127

5) Date JCAR Statement of Objection Published in the Register: December 29,
1995; 19 Ill. Reg. 17203

6) Summary of Action Taken by the Agency:

The Department of Commerce and Community Affairs has received and reviewed the Joint Committee on Administrative Rules' certified objection to our above-referenced rulemaking, specifically Section 120.50(a)(1)(B).

We hereby notify the Joint Committee on Administrative Rules and the Administrative Code Division that under the provisions of 5 ILCS 100/5-110(c)(3), we refuse to modify or withdraw the proposed rule and will proceed with its implementation.

The Department has determined that its Community Services Block Grant recipients' internal organization is a vital element of grant administration in the areas of financial management and contractual governance as restricted by federal law and therefore those functions should not be delegated.

The Department has determined that the recipients' internal organization is a vital element in sustaining the time-tested national and state network of Community Action Agencies which were created under the Economic Opportunity Act of 1964 and which have maintained federally earmarked funding for 32 years.

The Department has determined that it does have the statutory base for making this rule in that eligible entities for Community Services Block Grant funds are Community Action Agencies which were created and defined in federal law, a law and its regulations which are referenced in the Community Services Block Grant Act and in existing State law and rules and a law in which an undesignated corporate capacity is strongly inferred.

Finally, the Department has entered into a written agreement with

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the only Community Action Agency in the State affected by this rule. We have agreed to exempt the Big Muddy Community Action Agency from 47 Ill. Adm. Code, Section 120.50(a)(1)(B) to allow for the continued existence of a contractual arrangement for corporate capacity as long as that contracting complies with federal and State competitive procurement processes.

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1. Statute requiring agency to publish information concerning Private Letter Rulings in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 1995. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the *Taxpayers' Bill of Rights Act*. (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Addition Modifications
Bond Premium Amortization
Dividends
Interest
Net Operating Loss
Zero Coupon Bonds
Other Rulings
(Not Included Above)
Administrative Review
Allocation
(For Alternative Apportionment
Rulings, See that heading)
Alternative Apportionment
Amnesty
Apportionment
Financial Organizations

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Insurance Companies
 Payroll Factor
 Property Factor
 Sales Factor
 Transportation Services
 Other Rulings
 (Not Included Above)
 Assessment
 Bankruptcy
 Base Income
 (Also See Addition Modifications,
 Fringe Benefits, Subtraction
 Modifications)
 Books and Records
 Bulk Sales: See Sales Outside the
 Ordinary Course of Business (Bulk Sales)
 Business Income
 Capital Gains (Losses)
 (Also See Subtraction Modifications
 - Valuation Limitation)
 Check Off Funds
 Circuit Breaker
 Claims for Refund: See Refunds
 Collection
 Combined Unitary Return
 (Also See Unitary)
 Commercial Domicile
 Compensation
 Composite Returns
 Confidentiality
 Credits
 Coal Research and Utilization
 Credit for Replacement Tax Paid
 Credit for Residential Real
 Property Taxes
 Enterprise Zone Investment
 Foreign Tax
 High Impact Business Investment
 Jobs Tax
 Replacement Tax Investment
 Research and Development
 Training Expense
 Other Rulings
 (Not Included Above)
 Deficiencies
 Definitions
 Domestic International Sales
 Corporations (DISCs)

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Elections: See Combined
 Unitary Return, Extensions, Unitary
 Enterprise Zones
 (Also See Credits, Subtraction Modifications)
 Erroneous Refund: See Refunds
 Estates
 Estimated Tax
 Exempt Organizations
 Exemptions
 Extensions
 Failure to File: See Penalties
 Failure to Pay: See Penalties
 Farmers: See Estimated Tax
 Federal Returns
 Fiduciaries
 Financial Organizations: See
 Apportionment
 Foreclosure
 Foreign Sales Corporations
 (FSC's)
 Foreign Tax: See Credits
 Foreign Trade Zones: See
 Subtraction Modifications,
 Credits--Jobs Tax
 Forms
 Fraud: See Penalties
 Fringe Benefits
 IRC Sec. 125 "Cafeteria" Plans
 IRC Sec. 401(k) Plans
 Other Rulings
 (Not Included Above)
 Gain (Loss): See Capital Gains
 (Losses), Valuation Limitation
 Information Reports
 Insurance Companies: See Apportionment
 Interest Income
 (Also See Addition Modifications,
 Subtraction Modifications)
 Interest on Refunds and Deficiencies
 IRC Sec. 338
 Jeopardy: See Assessment
 Judicial Review
 Liens
 Limited Liability Companies
 Lottery
 Military
 (Also See Subtraction Modifications)
 Miscellaneous

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Modification Addition: See Addition Modifications
 Modification Subtraction: See Subtraction Modifications
 Mutual Funds: See Subtraction Modifications
 Net Income (Loss) and Net Loss Deduction (IITA Sec. 207)
 (Also See Base Income, Capital Gains (Losses), Combined Unitary Return, Net Operating Loss and Net Operating Loss Deduction)
 Net Operating Loss and Net Operating Loss Deduction
 Nexus: See Public Law 86-272/Nexus
 Nonbusiness Income
 Nonresidents: See Residency/Nonresidency
 Notice and Demand: See Notices
 Notices
 Nuclear Decommissioning
 Trusts
 Overpayments: See Refunds
 Partnerships
 Payments
 Payroll Factor: See Apportionment Penalties
 Failure to File (IITA Sec. 1001)
 Failure to File Withholding Returns (IITA Sec. 1004)
 Failure to Pay (IITA Sec. 1002)
 Failure to Pay Estimated Tax (IITA Sec. 804)
 Fraud (IITA Sec. 1002)
 Reasonable Cause (IITA Sec. 1001)
 Underpayment of Tax (IITA Sec. 1005)
 Other Rulings
 (Not Included Above)
 Pensions
 (Also See Subtraction Modifications)
 Political Organizations
 Professional Athletes
 Property Factor: See Apportionment
 Property Tax: See Subtraction Modifications
 Protest
 Public Law 86-272/Nexus
 Rate of Tax
 Real Estate Investment Trusts
 Reasonable Cause: See Penalties

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Refunds (Also See Subtraction Modifications)
 Statute of Limitations
 Other Rulings
 (Not Included Above)
 Regulated Investment Companies
 Replacement Tax
 (Also See Credits)
 Requirements of Requests for General Information Letters
 Requirements of Requests for Private Letter Rulings
 Residency/Nonresidency
 Returns
 (For Combined Unitary Return and Composite Return rulings, see those headings)
 Amended Returns
 Due Dates
 Requirements to File
 Short Period Returns
 Other Rulings
 (Not Included Above)
 S Corporations
 Sales Factor: See Apportionment
 Sales Outside the Ordinary Course of Business (Bulk Sales)
 Seizure
 Separate Accounting: See Alternative Apportionment
 Signature
 Specific Accounting
 Statute of Limitations: See Assessment, Collection, Deficiencies, Refunds
 Subchapter 'S' Corporations: See S Corporations
 Subpart F Income: See Subtraction Modifications
 Subtraction Modifications
 Bond Premium Amortization
 Enterprise and Foreign Trade Zones
 Illinois Tax Refund
 Interest on U.S. Government Obligations
 Military
 Money Market Mutual Funds
 Qualified Pension Plans
 Real Estate Taxes
 Subpart F Income
 Transportation Services
 Valuation Limitation
 Other Rulings
 (Not Included Above)

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Taxability in Other States

Taxable Year

Transferees

(Also See Sales Outside the Ordinary

Course of Business (Bulk Sales))

Transportation Services: See Apportionment

Trusts

Uniform Penalty and Interest Act

Unitary

(Also See Combined Unitary Return)

U.S. Government Obligations: See

Subtraction Modifications

Valuation Limitation: See Subtraction

Modifications

Voluntary Disclosure Agreements

Waiver on Assessments: See Assessment

Withholding

Employee Benefits

Exemptions

Personal Service Contracts

(IITA Sec. 1405.2)

Reciprocal Agreements

Other Rulings

(Not Included Above)

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25 cents per page for each page over one.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, and 1994, are available for \$3.00. A cumulative Income Tax Sunshine Index of 1991 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-6996

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ADDITION MODIFICATIONS - OTHER RULINGS

IT 95-0153 10/20/1995 General Information Letter: Pursuant to Section 203 (b)(2)(A) of the Illinois Income Tax Act, a taxpayer is required to add an amount equal to all amounts paid or accrued to the taxpayer as interest to the extent excluded from gross income in the computation of federal taxable income. As a result, federally exempt interest income received from Employee Stock Ownership plans is an addition modification for Illinois income tax purposes.

IT 95-0196 12/29/1995 General Information Letter: From 1969 until it was amended by P.A. 83-806, the Illinois Income Tax Act provided that interest and dividends excluded from adjusted gross income for federal purposes must be added back in computing base income for Illinois purposes. With the beginning of the special federal treatment for public utility reinvested dividends in 1982, these dividends became exposed to Illinois income taxation twice; once as an addback for Illinois purposes in the year the dividends were paid, and again later as a capital gain component of federal adjusted gross income in the year the reinvested dividends converted to stock were sold. P.A. 83-806 amended Section 203(a)(2)(A) to no longer require the Illinois addback for qualified public utility reinvested dividends.

ALLOCATION

IT 95-0150 10/10/1995 General Information Letter: Section 301 of the Illinois Income Tax Act sets forth the general rules of allocation of income. Allocation of income of nonresidents is governed by Section 301(c). Section 303(e) states that Lottery prizes won by nonresidents are allocated to and taxed by this State. Other types of gambling winnings are not referenced in Section 303. Therefore, according to Section 301(c) (2) (A) gambling winnings of non-residents from Illinois Racetracks and Illinois riverboats are not subject to Illinois income taxation.

IT 95-0157 10/23/1995 General Information Letter: With respect to a resident individual taxpayer, all items of income or deduction which were taken into account in the computation of base income for the taxable year are to be allocated to this State (see IITA Section 301(a)).

IT 95-0170 11/16/1995 General Information Letter: Section 301 of the Illinois Income Tax Act sets forth the general rules of allocation of income. In the case of nonresidents, allocation of income is governed by Section 301(c). Section 301(c) directs

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that nonresidents refer to

Sections 302, 303 and 304 concerning allocation and apportionment of income. Section 303(e) states that Illinois Lottery prizes won by nonresidents are allocated to the State of Illinois.

ALTERNATIVE APPORTIONMENT

IT 95-0154 10/21/1995 General Information Letter: The Department's income tax rules detail the procedures to be utilized by a taxpayer in petitioning the Department for alternative apportionment. These rules set forth in detail the procedural requirements for petitioning the Department for alternative apportionment and also explain the substantive showing that must be made in order for a petition to be granted (see 86 Ill. Adm. Code 100.3390).

IT 95-0179 12/12/1995 Private Letter Ruling: Denial of a petition for alternative apportionment. We were unable to conclude, based upon the information submitted, that the taxpayer met the burden of demonstrating that the three factor formula operated unreasonably and arbitrarily in attributing to Illinois a percentage of income that is out of all proportion to the business transacted in this State (See 86 Ill. Adm. Code 100.3390).

IT 95-0182 12/12/1995 Private Letter Ruling: Denial of a petition for alternative apportionment. The petition is not timely under any basis for a timely-filed petition under Section 100.3390(e).

BASE INCOME

IT 95-0155 10/23/1995 General Information Letter: Section 203(a)(1) of the Illinois Income Tax Act provides that in the case of an individual, base income means an amount equal to the taxpayer's adjusted gross income for the taxable year, subject to certain statutory addition and subtraction modifications.

IT 95-0158 10/23/1995 General Information Letter: Pursuant to Section 203(f) of the Illinois Income Tax Act, the taxable income of a cooperative corporation or association is determined in accordance with the provisions of Sections 1381 through 1388 of the Internal Revenue Code.

IT 95-0162 10/31/1995 General Information Letter: The Illinois Income Tax Act does not contain a deduction for gambling losses.

IT 95-0163 11/02/1995 General Information Letter: Section 203 of the Illinois Income Tax Act provides that in the case of an individual, base

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income means an amount equal to the taxpayer's adjusted gross income for the taxable year as modified by certain statutory addition and subtraction modifications.

IT 95-0185 12/15/1995 General Information Letter: Section 201 of the Illinois Income Tax Act provides that "a tax measured by net income is hereby imposed on every individual, corporation, trust and estate for each taxable year ending after July 31, 1969 on the privilege of earning or receiving income in or as a resident of this State."

IT 95-0186 12/18/1995 General Information Letter: In this State, a tax measured by net income is imposed on every individual, corporation, trust and estate on the privilege of earning or receiving income in or as a resident of this State (See IITA Section 201).

IT 95-0192 12/26/1995 General Information Letter: Response to an annual survey. In the case of individuals, base income means an amount equal to the taxpayer's federal adjusted gross income subject to certain statutory addition and subtraction modifications.

BOOKS AND RECORDS

IT 95-0195 12/28/1995 General Information Letter: Section 501 of the Illinois Income Tax Act imposes a duty on persons liable for Illinois income tax to "keep such records . . . as the Department may from time to time prescribe." In general, records that substantiate any information reported on an Illinois income tax return should be retained until after the limitations period for issuance of a notice of deficiency with respect to that return has expired.

COMPENSATION

IT 95-0176 11/30/1995 General Information Letter: Section 1501(a)(3) of the Illinois Income Tax Act defines the term "compensation" as "wages, salaries, commissions and any other form of remuneration paid to employees for personal services."

CREDITS - FOREIGN TAX

IT 95-0146 10/02/1995 General Information Letter: Section 601(b)(3) of the Illinois Income Tax Act provides for a foreign tax credit. The credit is limited to that amount which bears the same ratio to the tax imposed by this State as the amount of the taxpayer's base income subject to tax both by such other state or states and by this State bears to his or her total base income subject

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to tax by this State.

IT 95-0174 11/30/1995 General Information Letter: Section 601(b)(3) of the
 \$1.25 Illinois Income Tax Act provides a credit for taxes paid to other states. In order to obtain a refund of taxes paid to Illinois based upon the foreign tax credit, the claim for refund must be filed within the limitations period set forth in Section 911(a)(1) of the Illinois Income Tax Act. Based upon the information provided, there was no statutory basis for refunding Illinois taxes in this particular instance.

CREDITS - REPLACEMENT TAX INVESTMENT

IT 95-0171 11/21/1995 Private Letter Ruling: Section 201(e) of the Illinois
 \$2.25 Income Tax Act provides that "a taxpayer shall be allowed a credit against the Personal Property Tax Replacement Income Tax for investment in qualified property." The Department ruled that the public utility's transmission and distribution property does not qualify for the replacement tax investment credit because such property is not qualified property under Section 201(e).

IT 95-0193 12/27/1995 General Information Letter: According to Section
 \$1.50 100.2101(e)(9) retailing is defined as the sale of tangible personal property or services rendered in conjunction with the sale of tangible consumer goods or commodities. It is required that such tangible personal property be finished consumer goods and the property be sold to its ultimate consumer.

CREDITS - RESEARCH AND DEVELOPMENT CREDIT

IT 95-0181 12/12/1995 General Information Letter: Section 201(k) of the
 \$1.25 Illinois Income Tax provides for a research and development credit. The credit is allowed against the Illinois income tax (IITA 201(a) and (b)) and is equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State. The Department has adopted rules that explain the nature and extent of the research and development credit (See 86 Ill. Adm. Code 100.2160).

EXEMPT ORGANIZATIONS

IT 95-0149 10/10/1995 General Information Letter: Pursuant to Section 205(a)
 \$1.00 of the Illinois Income Tax Act, an organization that is exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code is also, without application, exempt from Illinois income taxation unless it has unrelated business

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taxable income as determined under Section 512 of the Internal Revenue Code.

IT 95-0180 12/12/1995 General Information Letter: Pursuant to Section 205(a)
 \$1.25 of the Illinois Income Tax Act, an organization that is exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code is also, without application, exempt from Illinois income taxation unless it has unrelated business taxable income as determined under Section 512 of the Internal Revenue Code.

IT 95-0184 12/15/1995 General Information Letter: General Discussion of
 \$1.50 Section 205(a) of the Illinois Income Tax Act in response to a survey from another State inquiring about organizations exempt from federal income taxation.

IT 95-0188 12/20/1995 General Information Letter: Pursuant to Section 205(a)
 \$1.00 of the Illinois Income Tax Act, an organization which is exempt from federal income tax under Section 501(a) of the Internal Revenue Code is not subject to Illinois income tax except to the extent that it has unrelated business taxable income as determined under Section 512 of the Internal Revenue Code.

EXEMPTIONS

IT 95-0156 10/23/1995 General Information Letter: Section 204(d)(1) of the
 \$1.50 Illinois Income Tax Act authorizes an additional exemption in the amount of \$1000 for each taxpayer, and taxpayer's spouse in the case of a joint return, who is 65 years of age or older.

MEDICAL CARE SAVINGS ACCOUNTS

IT 95-0189 12/22/1995 General Information Letter: The maximum contribution
 \$1.25 levels for Medical Care Savings Accounts are adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States. The Consumer Price Index annual average for all urban consumers was 144.5 for calendar year 1993 and 148.2 for calendar year 1994. Therefore, the thresholds established under the Medical Care Savings Account Act were adjusted upward by 2% for 1995. For 1995 the maximum contribution for 2 taxpayers filing a joint return is \$6156 and the maximum contribution for all others is \$3078.

IT 95-0190 12/22/1995 General Information Letter: The Department is currently
 \$1.25 in the final stages of developing draft rules on the Medical Care Savings Account program.

MISCELLANEOUS

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IT 95-0147 10/06/1995 General Information Letter: Response to an annual state income tax survey.

IT 95-0161 10/30/1995 General Information Letter: Response to a survey requesting information concerning statutory and regulatory provisions amended in recent months.

NET OPERATING LOSS AND NET OPERATING LOSS DEDUCTION

IT 95-0173 11/28/1995 Private Letter Ruling: It is the Department's position that it is necessary for a taxpayer to establish an Illinois net loss for a particular year by means of a filed Illinois income tax return. This would include a timely filed amended return for the loss year. In this case, the taxpayer could not file amended returns because of the operation of the statute of limitations. Therefore, the Department cannot recognize the claimed loss carry forwards because they were not established by a timely filed Illinois income tax return for the loss years.

IT 95-0175 11/30/1995 Private Letter Ruling: Based upon a review of the information set forth in the ruling request, a review of the provisions of the Illinois Income Tax Act, the rules adopted by the Department, and prior ruling letters issued by the Department, the Department ruled that Taxpayer may carry back its Illinois Net Operating Loss for the year ended March 31, 1994, even though Taxpayer elected to carry forward its federal Net Operating Loss for the same year.

PARTNERSHIPS

IT 95-0151 10/11/1995 General Information Letter: Section 203(d) of the Illinois Income Tax Act provides that base income of a partnership means an amount equal to the taxpayer's taxable income for the tax year as modified by subsection (d)(2).

IT 95-0164 11/03/1995 General Information Letter: Section 203(d)(2)(I) of the Illinois Income Tax Act allows a partnership to subtract an amount equal to all amounts of income distributable to an entity subject to the personal property tax replacement income tax including amounts distributable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code.

PENALTIES - FAILURE TO FILE (IITA Section 1001)

IT 95-0169 11/16/1995 General Information Letter: For returns due on or after January 1, 1996, the late filing penalty is figured using a

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two-tier formula. The first tier is equal to the lesser of \$250 or 2 percent of the tax required to be shown due on the return, without regard to any payments and credits. This tier is assessed the day after the original due date of the return, including any extended due date. The second tier is equal to the greater of \$250 or 2 percent of the tax shown on the return, without regard to any payments or credits, and may be assessed up to a maximum of \$5,000. This second tier penalty will be assessed even if there is not tax liability due. The second tier is assessed in addition to the first tier if a return is not filed within 30 days of a notice of nonfiling from the Department.

IT 95-0177 11/30/1995 General Information Letter: Section 3-3 of the Uniform Penalty and Interest became effective January 1, 1994. The late filing penalty set forth in UPIA Section 3-3 is amended effective January 1, 1996 by P.A. 89-379.

PUBLIC LAW 86-272/NEXUS

IT 95-0187 12/18/1995 General Information Letter: General discussion of nexus principles. The determination of nexus is extremely fact-dependent. As a result, the Department declines to issue private letter rulings on the issue of whether a particular taxpayer has nexus with the State of Illinois. Such a determination may only be made in the context of an audit where the Department's auditor would have access to all relevant facts and circumstances.

IT 95-0191 12/22/1995 General Information Letter: General discussion of income tax nexus principles.

REFUNDS - STATUTE OF LIMITATIONS

IT 95-0160 10/30/1995 General Information Letter: Section 911 of the Illinois Income Tax Act sets forth the limitations period for claims for refund. Section 911(a)(1) provides that "a claim for refund shall be filed no later than 3 years after the date the return was filed. . . , or one year after the tax was paid whichever is later"

S CORPORATIONS

IT 95-0166 11/14/1995 General Information Letter: Section 203(e)(2)(G) states with respect to taxable income, that in the case of a Subchapter S corporation for which there is in effect an election for the taxable year under 1362 of the Internal Revenue Code, the taxable income of such corporation determined in accordance with Section

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1363(b) of the Internal Revenue Code, except that the taxable income shall take into account those items which are required by Section 1363(b)(1) of the Internal Revenue Code to be separately stated.

SEIZURE

IT 95-0183 12/13/1995 General Information Letter: Attempt to levy on an insurance policy issued by a fraternal benefit society was unsuccessful. There is an exemption statute peculiar to fraternal benefit societies (215 ILCS 5/299) that barred the Department's levy.

SUBTRACTION MODIFICATIONS - ENTERPRISE AND FOREIGN TRADE ZONES

IT 95-0178 11/30/1995 Private Letter Ruling: Section 203(a)(2)(J) of the Illinois Income Tax Act is the statutory authorization for the Enterprise Zone dividend subtraction. Individual taxpayers are provided a subtraction modification for dividends received from a corporation that conducts substantially all of its operations in an enterprise zone or zones created under the Illinois Enterprise Zone Act. In order to qualify for the subtraction, a corporation must demonstrate that it conducts 95% or more of its business operations in an enterprise zone. The ruling request failed to demonstrate that the taxpayer conducts 95% or more of its operations with the Enterprise Zone.

IT 95-0194 12/28/1995 General Information Letter: According to 2 Ill. Adm. Code 1200.120, general information letters are not binding on the Department. However, it was indicated in the current general information letter, that general information letter IT 93-0174 does not represent the position of the Illinois Department of Revenue with respect to the Enterprise Zone Dividend Subtraction.

SUBTRACTION MODIFICATIONS - MONEY MARKET MUTUAL FUNDS

IT 95-0159 10/30/1995 General Information Letter: Section 100.2470(f) of the Department's rules provides that income from state and local obligations is not exempt from Illinois income tax except where authorizing legislation adopted after August 1, 1969 specifically provides for an exemption. Income from mutual funds that invest in state and local obligations is always subject to Illinois taxation, even if the fund invests in state and local obligations that are statutorily exempt from Illinois income taxation. Section 100.2470(f) states that "income from these bonds is not exempt if the bonds are owned indirectly through

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owning shares in a mutual fund."

SUBTRACTION MODIFICATIONS - OTHER RULINGS

IT 95-0168 11/16/1995 General Information Letter: Section 203(a)(2)(F) of the Illinois Income Tax Act provides individuals with a subtraction for distributions from IRAs included in federal adjusted gross income pursuant to Section 408 of the Internal Revenue Code.

SUBTRACTION MODIFICATIONS - QUALIFIED PENSION PLANS

IT 95-0148 10/10/1995 General Information Letter: Section 203(a)(2)(F) of the Illinois Income Tax Act provides a subtraction modification from federal adjusted gross income for distributions under any retirement or disability plan for employees of any governmental agency or unit as well as distributions from any federally tax-qualified retirement plan. The Department has interpreted this subtraction modification to include annuity payments under the RSEPP (Retired Serviceman's Family Protection Plan) and the SBP (Survivor Benefit Plan).

IT 95-0152 10/18/1995 General Information Letter: Response to an annual survey on the state income tax treatment of retirement and deferred compensation plans.

TRUSTS

IT 95-0165 11/14/1995 General Information Letter: According to Section 1501 (a)(20) of the Illinois Income Tax Act, a trust is a resident of Illinois if it was either created by a will of a decedent who at his or her death was domiciled in this State, or it became irrevocable while the grantor was domiciled in Illinois and the grantor is not treated as the owner under Sections 671 through 678 of the Internal Revenue Code.

UNIFORM PENALTY AND INTEREST ACT

IT 95-0167 11/16/1995 General Information Letter: The Uniform Penalty and Interest Act became effective on January 1, 1994. In the situation described in the taxpayer's letter, the Uniform Penalty and Interest Act would not apply, except for the purpose of calculating the rate of interest for the periods beginning January 1, 1994.

WITHHOLDING - OTHER RULINGS

IT 95-0172 11/28/1995 General Information Letter: Section 100.3100 of the Illinois Income Tax Rules provides that "the term employee

NOTICE OF PUBLIC INFORMATION

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includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term has the same meaning under the Illinois Income Tax Act as under 26 U.S.C. Section 3401(c) and 26 CFR 31.3401(c)-1."

HEALTH FACILITIES PLANNING BOARD

JANUARY 1996 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Narrative and Planning Policies; 77 Ill. Adm. Code 1100

1) Rulemaking:

A) Description: Part 1100 will be amended to reflect revisions involving service area boundaries and changes in certain bed need methodologies. Changes will also be made to the Postsurgical Recovery Care Center's criteria to reflect statutory amendments. Additionally, criteria establishing Children's Respite Care Centers will be proposed.

B) Statutory Authority: Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the Board prior to *Illinois Register* publication.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1100 are not anticipated to have an adverse impact upon health care facilities.

F) Agency contact person for information:

Name: Donald Jones
Rules Coordinator
Address: Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, 2nd Floor
Springfield, Illinois 62761
Telephone: 217-782-3516

G) Related rulemakings and other pertinent information: None

- b) Part(s) (Heading and Code Citation): Processing, Classification Policies and Review Criteria; 77 Ill. Adm. Code 1110

1) Rulemaking:

A) Description: Part 1110 will be amended to revise standards and criteria for Ambulatory Surgical Treatment Centers, Subacute Care Hospital Models, Postsurgical Recovery Care Centers and the Therapeutic Radiology category of service. Additionally,

HEALTH FACILITIES PLANNING BOARD

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criteria establishing Children's Respite Care Centers will be proposed.

B) Statutory Authority: Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the Board prior to *Illinois Register* publication.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1110 are not anticipated to have an adverse impact upon health care facilities.

F) Agency contact person for information:

Name: Donald Jones

Address: Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761

Telephone: 217-782-3516

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Health Facilities Planning Financial and Economic Feasibility Review; 77 Ill. Adm. Code 1120

1) Rulemaking:

A) Description: Part 1120 will be amended to revise financial and economic feasibility review criteria. These standards are the foundation for all components of the financial and economic review performed as part of the Certificate of Need process. Amendments will involve the type and scope of financial standards utilized for evaluation of a prospective health care facility project.

B) Statutory Authority: Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

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D) Date agency anticipates First Notice: Amendments for proposal must be approved by the Board prior to *Illinois Register* publication.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1120 are not anticipated to have an adverse impact upon health care facilities.

F) Agency contact person for information:

Name: Donald Jones

Address: Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761

Telephone: 217-782-3516

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Health Facilities Planning Board Procedural Rules; 77 Ill. Adm. Code 1130

1) Rulemaking:

A) Description: Part 1130 will be amended to revise procedural rules concerning clarification of transactions that are by or on behalf of a health care facility, changes to exemption requirements for certain transactions, revisions to post permit requirements such as definition of obligation, tolling of permit expiration dates due to litigation, revision to capital expenditure thresholds, and definition of project.

B) Statutory Authority: Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Proposed amendments must be approved by the Board prior to *Illinois Register* publication.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1130 are not anticipated to have an adverse impact upon health care facilities.

HEALTH FACILITIES PLANNING BOARD

JANUARY 1996 REGULATORY AGENDA

F) Agency contact person for information:

Name: Donald Jones
Rules Coordinator
Address: Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761
Telephone: 217-782-3516

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Practice and Procedure in Administrative Hearings; 77 Ill. Adm. Code 1180

1) Rulemaking:

A) Description: Part 1180 contains provisions to address the administrative hearing process conducted for resolution of project denials under the Certificate of Need program. The rules will be amended to revise the responsibilities of the Administrative Law Judge, to revise procedural requirements of applicants involved in administrative hearings, and to clarify required data under the rules.

B) Statutory Authority: Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the Board prior to *Illinois Register* publication.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1180 are not anticipated to have an adverse impact upon health care facilities.

F) Agency contact person for information:

Name: Donald Jones
Rules Coordinator
Address: Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761

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Telephone: 217-782-3516

G) Related rulemakings and other pertinent information: None

F) Part(s) (Heading and Code Citation): Public Notice of Opportunity for Public Hearing and Public Hearing Procedures; 77 Ill. Adm. Code 1200

1) Rulemaking:

A) Description: Part 1200 contains the Health Facilities Planning Board's procedural rules on opportunity for public hearing and public hearing requirements for Certificate of Need applications. The proposed amendments delete the notice requirements for various organizations, health care facilities, and other persons and follows the statutory requirement of giving notice through publication in a newspaper serving the community.

B) Statutory Authority: Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the Board prior to *Illinois Register* publication.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1200 are not anticipated to have an adverse impact upon health care facilities.

F) Agency contact person for information:

Name: Donald Jones
Rules Coordinator
Address: Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761
Telephone: 217-782-3516

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of February 13, 1996 through February 19, 1996 and have been scheduled for review by the Committee at its March 26, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
3/28/96	Department of Financial Institutions, Transmitters of Money Act (38 Ill Adm Code 205)	12/15/95 19 Ill Reg 16423	3/26/96
3/28/96	Department of Financial Institutions, Consumer Installment Loan Act (38 Ill Adm Code 110)	12/15/95 19 Ill Reg 16410	3/26/96
3/28/96	Department of Financial Institutions, Illinois Credit Union Act (38 Ill Adm Code 190)	12/15/95 19 Ill Reg 16415	3/26/96
3/28/96	Department of Insurance, Definition of Salary (50 Ill Adm Code 6302)	10/6/95 19 Ill Reg 13707	3/26/96
3/28/96	Illinois Racing Board, Horse Health Rules (11 Ill Adm Code 1431)	11/27/95 19 Ill Reg 15817	3/26/96
3/28/96	Illinois Racing Board, Forbidden Conduct (11 Ill Adm Code 1320)	11/27/95 19 Ill Reg 15814	3/26/96
3/28/96	Illinois Racing Board, Account Wagering (11 Ill Adm Code 321)	9/15/95 19 Ill Reg 12956	3/26/96

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
3/28/96	Department of Rehabilitation Services, Services (89 Ill Adm Code 590)	11/27/95 19 Ill Reg 15820	3/26/96
3/28/96	Illinois Gaming Board, Riverboat Gambling (86 Ill Adm Code 3000)	11/13/95 19 Ill Reg 15308	3/26/96
3/28/96	Department of Labor, Illinois Child Labor Law (56 Ill Adm Code 250)	11/3/95 19 Ill Reg 15154	3/26/96
3/30/96	Department of Public Aid, Aid to Families with Dependent Children (89 Ill Adm Code 112)	9/15/95 19 Ill Reg 12927	3/26/96
3/30/96	Department of Rehabilitation Services, Eligibility (89 Ill Adm Code 682)	11/13/95 19 Ill Reg 15362	3/26/96
3/30/96	Department of Rehabilitation Services, Services (89 Ill Adm Code 590)	11/13/95 19 Ill Reg 15366	3/26/96
3/30/96	Department of Rehabilitation Services, Repeal of Total Life Planning Program (89 Ill Adm Code 895)	11/17/95 19 Ill Reg 15601	3/26/96
3/30/96	Department of Public Aid, Demonstration Programs (89 Ill Adm Code 170)	11/27/95 19 Ill Reg 15786	3/26/96
3/30/96	Department of Rehabilitation Services, Program Description (89 Ill Adm Code 676)	12/22/95 19 Ill Reg 16811	3/26/96
3/30/96	Department of Rehabilitation Services, Determination of Need (DON) and Resulting Service Cost Maximums (SCMS) (89 Ill Adm Code 679)	12/22/95 19 Ill Reg 16803	3/26/96

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

3/30/96	Department of Rehabilitation Services, Individualized Written Rehabilitation Program (IWRP) (89 Ill Adm Code 572)	12/22/95 19 Ill Reg 16807	3/26/96
3/30/96	Secretary of State, Literacy Grant Program (23 Ill Adm Code 3040)	12/22/95 19 Ill Reg 16815	3/26/96
3/31/96	Department of Public Aid, Medical Assistance Programs (89 Ill Adm Code 120)	10/6/95 19 Ill Reg 13797	3/26/96

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March 1, 1996

Rules acted upon during the quarter of January 1 through March 31, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 952 published in Issue 2 will be listed as 50-952-2. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatala@ccgate.sos.state.il.us (Internet address).

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